FISCAL YEAR 1983 BUDGET AUTHORIZATION FOR THE IMMIGRATION AND NATURALIZATION SERVICE

HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND REFUGEE POLICY

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

BUDGET AUTHORIZATION FOR FISCAL YEAR 1983 FOR THE
IMMIGRATION AND NATURALIZATION SERVICE

MARCH 29, 1982

Serial No. J-97-107

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
99-234 O WASHINGTON : 1982

5521-84

COMMITTEE ON THE JUDICIARY

[97th Congress]

STROM THURMOND, South Carolina, *Chairman*

CHARLES McC. MATHIAS, Jr., Maryland
PAUL LAXALT, Nevada
ORRIN G. HATCH, Utah
ROBERT DOLE, Kansas
ALAN K. SIMPSON, Wyoming
JOHN P. EAST, North Carolina
CHARLES E. GRASSLEY, Iowa
JEREMIAH DENTON, Alabama
ARLEN SPECTER, Pennsylvania

JOSEPH R. BIDEN, Jr., Delaware
EDWARD M. KENNEDY, Massachusetts
ROBERT C. BYRD, West Virginia
HOWARD M. METZENBAUM, Ohio
DENNIS DeCONCINI, Arizona
PATRICK J. LEAHY, Vermont
MAX BAUCUS, Montana
HOWELL HEFLIN, Alabama

Vinton DeVane Lide, *Chief Counsel*
Quentin Crommelin, Jr., *Staff Director*

Subcommittee on Immigration and Refugee Policy

ALAN K. SIMPSON, Wyoming, *Chairman*

STROM THURMOND, South Carolina
CHARLES E. GRASSLEY, Iowa

EDWARD M, KENNEDY, Massachusetts
DENNIS DeCONCINI, Arizona

Richard W. Day, *Chief Counsel and Staff Director*
Donna Alvarado, *Counsel*
Charles O. Wood, *Counsel*
Arnold H. Leibowitz, *Special Counsel*

CONTENTS

OPENING STATEMENT

Page

Simpson, Hon. Alan K., a U.S. Senator from the State of Wyoming, chairman, Subcommittee on Immigration and Refugee Policy 1

CHRONOLOGICAL LIST OF WITNESSES

Nelson, Hon. Alan C., Commissioner, Immigration and Naturalization Service; accompanied by Doris M. Meissner, Acting Deputy Commissioner; James A. Kennedy, Acting Comptroller; Thomas N. Perrelli, Director, Program Planning and Budget Staff, Ross C. Cory, Acting Chief, Budget Formulation Group; Andrew J. Carmichael, Associate Commissioner, Examinations; Joseph F. Salgado, Associate Commissioner, Enforcement; Roger P. Brandemuehl, Assistant Commissioner, Border Patrol; James H. Walker, Acting Associate Commissioner, Management; Robert A. Kane, Associate Commissioner, Operations Support; and Maurice C. Inman, Jr., General Counsel 2

Harpold, Michael, president, National Immigration and Naturalization Council, American Federation of Government Employees 50

ALPHABETICAL LISTING AND MATERIALS SUBMITTED

Harpold, Michael G.:
  Testimony 50
  Prepared statement with attachments 58
Nelson, Alan C.:
  Testimony 2
  Prepared statement 33
  Responses to questions by Senator DeConcini 43

BUDGET AUTHORIZATION FOR FISCAL YEAR 1983 FOR THE IMMIGRATION AND NATURALIZATION SERVICE

MONDAY, MARCH 29, 1982

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:40 p.m., in room 5110, Dirksen Senate Office Building, Hon. Alan K. Simpson (chairman) presiding.

Staff present: Richard W. Day, chief counsel and staff director; Donna M. Alvarado, counsel; Arnold H. Leibowitz, special counsel; and Valentine Jones, research assistant.

OPENING STATEMENT OF HON. ALAN K. SIMPSON A U.S. SENATOR FROM THE STATE OF WYOMING, CHAIRMAN, SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY

Senator SIMPSON. Well, I am pleased to welcome to this annual budget authorization hearing the first confirmed Commissioner of the Immigration and Naturalization Service in 3 years, which comprises my entire tour of duty in this place. It is great to see you here, Al Nelson. You have been particularly accessible and helpful to members of this committee, the subcommittee, and to the staff of the subcommittee and I deeply appreciate that in every way.

I want to also commend the staff of your budget office, Mr. James Kennedy and Mr. Thomas Perrelli for their excellent work and assistance in providing information on the programs and the budget for the Service in 1983. It is one of the most complete pieces of work the INS has produced on the budget in several years, I can personally say that, and I commend your leadership and their effort in this regard.

As you know, the Service has a great deal of support among the members of this committee. We are working to create legislation that will be at once enforceable and humane, and we believe that sufficient resources and manpower must be authorized and appropriated by the Congress if immigration reforms are to be effective.

Because an important part of the immigration reform package does not require new legislation, but instead focuses on upgrading the level of existing INS enforcement programs, I am particularly dismayed to note that there are no increases for enforcement programs in the INS fiscal year 1983 budget request. In many important programs, however, there are actual decreases in funding and positions from the 1981 levels.

I am fully aware, and I think the subcommittee is aware that much of the INS enforcement effort was diverted to handle the Cuban/Haitian crisis in 1980 and 1981. This resulted in the lowest apprehension and investigation rates the Service has had in several years. We are not fully aware how this lapse in enforcement along the border and in the interior has contributed to illegal immigration during this period. My hunch is that the word has gotten out that our guard is down a bit.

The administration has proposed increases in enforcement levels over the original fiscal year 1981 budget. But because many of these increases are still below the 1981 levels, the resources and manpower are not enough. As we will hear this afternoon, the INS is undertaking many important changes in its operation which will improve its efficiency and result in cost savings. And while I am supporting the administration's effort at fiscal constraint, I do tend to agree with my west coast colleagues when they state that immigration enforcement is by nature a Federal responsibility. Given the migration pressures which are building in today's world, we cannot as a nation fail to provide the level of resources and manpower necessary to enforce our immigration laws in a humane, nondiscriminatory fashion, while at the same time providing the necessary resources for the services provided by the INS to legal immigrants coming to our Nation.

We must not forget that mission, and I know you do not. The Immigration Reform and Control Act of 1982 includes a provision stating congressional intent to provide for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service in order to achieve an effective level of control over illegal immigration.

So the hearing should provide us information for beginning that process, and I look forward to the testimony. Please proceed, Mr. Commissioner, and introduce any of those that you wish to the subcommittee.

Thank you.

STATEMENT OF HON. ALAN C. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY DORIS M. MEISSNER, ACTING DEPUTY COMMISSIONER; JAMES A KENNEDY, ACTING COMPTROLLER; THOMAS N. PERRELLI, DIRECTOR, PROGRAM PLANNING AND BUDGET STAFF; ROSS C. CORY, ACTING CHIEF, BUDGET FORMULATION GROUP; ANDREW J. CARMICHAEL, ASSOCIATE COMMISSIONER, EXAMINATIONS; JOSEPH F. SALGADO, ASSOCIATE COMMISSIONER, ENFORCEMENT; ROGER P. BRANDEMUEHL, ASSISTANT COMMISSIONER, BORDER PATROL; JAMES H. WALKER, ACTING ASSOCIATE COMMISSIONER, MANAGEMENT; ROBERT A. KANE, ASSOCIATE COMMISSIONER, OPERATIONS SUPPORT; AND MAURICE C. INMAN, JR., GENERAL COUNSEL

Mr. NELSON. Thank you, Mr. Chairman. It is certainly a pleasure to be back before you.

We have had an opportunity, on many occasions, in the course of the hearings on the legislation to testify, and we do appreciate the support that you and the subcommittee have given to INS, working toward significant immigration reform.

As you say, it is the first time, as a full-time Commissioner, that I have been before your committee, and I appreciate your kind remarks in that regard.

Let me introduce those who are with us. We have our top management team. You know Doris Meissner, the Acting Deputy Commissioner; Joe Salgado, to my far right, is the Associate Commissioner for Enforcement. Joe joined us from California about the first of the year, and has been taking a very active role.

Working to my left is Jim Kennedy, the Acting Comptroller, who, as you very nicely stated, and his people have done an excellent job, and we very much appreciate it; Tom Perrelli of the budget and planning staff, also a great effort on Tom's part; Andy Carmichael, Associate Commissioner, examinations; and in the back here, the first row, Mr. Bob Kane, who is our Associate Commissioner, operations support; Buck Brandemuehl, the Assistant Commissioner in charge of Border Patrol; Hugh Brien the head of detention and deportation; Mike Inman, our new General Counsel. Mike has been with us a few months now. Mr. Jim Walker, the acting Associate Commissioner for Management.

I might have missed a few others. I will pass later, and as the hearing goes on, certainly any of these can elaborate on any answers that I might give, or that the Committee might want to explore in more detail.

BUDGET REQUEST

As you know, Mr. Chairman, of course we are appearing before you on our budget request for fiscal year 1983, in the amount of $524,599,000, and 10,661 positions. This is a continuation of the 1982 budget, with about $37 million in uncontrollable costs, and then an additional amount of some $58, or a little over $58 million, in the Cuban and Haitian entry program which is being transferred from HHS.

The figures are as I have indicated. There are really three areas that I think INS needs to focus on in the year ahead; one is certainly the policy leadership that has been lacking because of a lot of organizational problems, and that we hope is on the right track now; second, effective management, and I will spend a good part of my time in that area; and third legislative reform. I think we have all indicated, on many occasions before your Committee, the absolute necessity this year of significant legislative reform in the areas that we have all dealt with, as far as sanctions, the asylum processing, legalization program, numerical questions, some kinds of temporary work considerations, and we very much want to formally acknowledge, as has been done by the Attorney General, the excellent leadership that you have shown in this area, along with Representative Mazzoli in the Simpson-Mazzoli bill. We are very aware and commend you for a lot of the excellent reports that you have received from the press and media on your bill.

IMMIGRATION REFORM

We very much look forward, as an administration, to working closely with you, your committee, and with the House, in working toward the absolute necessity that we indicated in immigration reform. The differences between the administration's bill and yours are certainly not such that should in any way prevent us from moving toward that end result, and we certainly pledge ourseselves to working very closely with you.

Senator Simpson. I am very appreciative. Thank you.

Mr. Nelson. In the policy area, I think, as indicated, Mr. Chairman, the fact that we in INS are in an era of new stability, will be helpful in reasserting what is absolutely necessary in the policy arena. We have in that regard, I think, worked very effectively in recent months with a number of the other Federal agencies, as well as State and local, particularly the State Department. We have established some excellent working relationships with Consular Affairs; we have established a biweekly meeting arrangement with the various refugee people within State and within the Government.

Similarly, with Treasury and Labor and Agriculture, that largely tie in with the bill, but go beyond that. If I could, Mr. Chairman, I might go to the chart now, as a way to move along in the interest of time.

I apologize to those in the back who cannot see me. Some have seen it before.

MANAGEMENT

I might indicate, Mr. Chairman, that a lot of these charts were the ones that I used with the Attorney General about a month ago, in giving him an overall briefing, as I saw INS, as I was coming into it, and so I made a similar presentation at the House authorization meeting last Thursday.

As a new person in charge, I am sure people are interested in my style. I think we have had a chance to meet on that, but I believe the kinds of comments you mentioned, certainly the stability factor is essential, and I think the open style is important as we deal with the constituent groups, as we deal with the Congress and other agencies of the Government, they are very important.

As a management style, similarly, inside we need to draw people outside, to make sure that they have a say in the policy development, and in the delivery of the services that are so vital, which maybe has slipped in recent years.

I am a firm believer in delegation and organization. That is absolutely necessary, and tied in with that, is line responsibility. We have the action out in the field, the districts, and whatever, and this is where we really have to deliver, to be sure that these people are part of the top management.

In this regard, several management initiatives are underway. We have just recently developed our own decision process within our own executive staff, as a way of making decisions in a more orderly fashion, and I think in a more deliberate way with documentation. That is underway. We had a complete study in the last 6 to 8 weeks on various organizational considerations, and that is being reviewed, as to whether there will be an organizational change, and, if so, how. But it should be in a deliberate fashion.

MISSION PLAN IMPLEMENTATION

We just recently published, and I believe the committee has seen these, our fiscal 1982 priorities, with timetables and organizational responsibility, as well as clearly setting forth the major responsibilities. I think that is a key.

I have already talked to the last two, the immigration policy and the legislative change.

Please feel free to interject with any questions or comments as we go along here.

I will get into these later. I am just showing these as the eight major objectives currently in the fiscal year 1982 INS program. I think they speak for themselves as to subject mtter, and again we will talk about these in detail as I go forth.

Again, it is a broad background, the service aspects, the enforcement aspects, and certainly a lot of the management considerations that tie through this. The legislative initiatives, we are underway with a number of approaches to implement the legislation, and we will get to that.

PUBLIC PERCEPTION OF THE INS

As we go forward in the problems, I do not want to dwell on it, and I will not spend a lot of time on it now, but in terms of public perceptions, I might briefly read a couple of excerpts from the press.

One is U.S. News & World Report of June 22, 1981, an article where they had you and Chairman Mazzoli featured, a lot of the talk about Immigration, but here is one of the comments, where it says, "one U.S. Attorney General called INS a system of nonmanagement."

Then, I am reading now from the Foreign Affairs magazine, 1980:

> The Immigration and Naturalization Service has been the whipping boy and the laughing stock of the Executive Branch. It is underfunded, mismanaged, undermanned, inadequately supplied, driven by internal dissention, and manipulated, yet they are also routinely pilloried for failing to fulfill assignments under such impossible circumstances.

That is the good news.

Senator **Simpson**. A stronger letter follows; is that right?

Mr. **Nelson**. Yes. I think, not to dwell on the problem, but INS has a reputation of these problems. It has a bad image, and going into my personal perceptions, as I stated to you privately, I think the truth is somewhere in the middle. We have a fine organization, excellent dedicated people, and we can do a great job, but we need to improve our own image, our own self-respect, and we can work to that end, and we are seeing a lot of that going on.

In the meantime, there is a lot in terms of systems, new techniques, being up to date with the age we are living in, recognizing the tremendous external problems that we have, with the ability to better deal with those, trying not to react, but to do a little advance planning, so that I do think, from my own personal view, and 6 months here, and a month as Commissioner, that we can work from both ends and improve the system. We definitely have to do that, and at the same time we have a good residual organization, and a lot of good things that I am convinced that we can build on.

This again talks about the list of problems. I have touched on organizational decisions already, and personnel vacancies. We had a problem that goes down from the Commissioner, with many, many acting positions in the Service. We are working on that in a deliberate fashion, and I will address those.

Office problems, telephone lines, processing of people, and applications, of course, is the most notorious problem, and obviously we need to do a great deal to improve on that. We are underway. It is not going to be easy. I think the whole thing is like turning the battleship, it takes time; it will not be overnight, but we can do that.

Data processing, we are seeing a lot of things underway. Labor-management relations is an ongoing thing. Mr. Harpold is here, we have had good discussions. We are working with the labor organizations, again, improving INS. Inventories, we have not had an inventory in many, many years. Somewhat of an example of the kinds of things we need to be sure what we have and what we are doing.

INS ACTIONS UNDERWAY

Now, let me turn to some of the things, Mr. Chairman, actions underway, dealing in these areas where we talk about the problem. The long-term ADP plan. I know your staff saw a presentation a few weeks ago. We have underway, and I think we will get into some of this, a long-term plan. It has been developed over the last year or so, trying to avoid some of the problems in the past, to get moving forward, to be sure what we do is done right, done effectively, and to meet a lot of the problems.

We must automate in the type of work, and the paper, and the contacts we have, there is no question we need to do that. We are in the process of developing data bases for a number of these, as indicated. They are underway, we are working closely to integrate with the other computer systems within Justice and State, also Customs, which is not indicated on here. We are going forward. We see one of the early steps, the nonimmigrant system, to be actually in place a year from now, January 1983.

In the adjudication process, we have, in a number of our offices, undertaken the up-front processing. It has worked very well. We see that as definitely being expanded, and to be a very effective technique to more promptly and efficiently adjudicate cases, and we think that is a good thing for the future, which can help us in many respects.

Profiles—no question we need to move to that. We have some pilot development in that area. We see that we will do a great deal more.

The implementation efficiency bill, again, Mr. Chairman, thanks largely to your good efforts in getting that passed last year, and we certainly appreciate it, is underway now. We have regulations out.

We are administratively pursuing it. We see some savings, and that can help us, certainly in the adjudication process, as well as elsewhere.

Telephone response—I know we are all frustrated by the difficulties which we have in that area. I know we have several projects underway, in several cities, that should be showing us some good responses, to improving our telephone system. We expect to increase that.

Also, the idea of the Telephone Information Center; we can do more in that area and we expect to move in that direction. Again, it will take some time, but I think we can make some good progress.

In the communications, I have already talked about the decision process. I think already we are seeing a more active role there. One of the key parts of that is to be sure that we get the field, the district directors, the border patrol chiefs, and others to be part of the top management team, and I have been selling that hard, and I see that developing.

ROLE OF THE COMMISSIONER

Senator SIMPSON. You really do see results in that area. I think that is a critical thing, that those field officers, those regional people, really know that there is a living INS Commissioner.

Mr. NELSON. Right. I see an attitude change. It is probably going to be a while to see a lot of tangible results, but I have been out in the field a fair amount, and I hope to do more. Certainly in the meetings we have had here, and the messages we are getting out, I see that attitude.

Senator SIMPSON. But you yourself have spent time in those field areas?

Mr. NELSON. I certainly have. I had a meeting with General Chapman last week. I think he said he spent a third of his time out there. I do not know if I can do that well, but I certainly am a believer in the field, and will get out as much as I can, and communicate.

I might mention here, in that regard, it might be another chart, but in the vacancies, we have already filled four district director vacancies. I have interviewed the top three or four candidates, in a belief that I needed to get to know the people, and that had not been done before, apparently, for 20 years. It had not been done at INS. We are under the same process with a border patrol position, as well as several top important positions, so we are moving forward to fill the vacancies, and in the process of that, I know I am talking to them very clearly, about being part of the top management team.

As far as externally building the image of the Service, as you know very well, Mr. Chairman, I have met with about all the constituent groups that I have had a chance to so far, covering the whole spectrum of ideology and attitude. It has been very effective for me to get to know them, and vice versa, and share viewpoints.

So we expect to do that, even in groups that we might not be tracking with, and I know that you share that concept. That ties in with the general public. Our message is not always an easy one to sell, because somebody thinks, whatever we have to do, somebody is not going to like it, but I think we can, as you have done in the process of your committee, and your bill, get out there and get the message out there for reform. That is what we are doing, and need to do.

I think we can do more, and then that itself will help the Service in its own internal image. We will talk about several of the other actions underway here.

Detention policy—we think that has been very effective. Tomorrow I am going to Miami, where I will be testifying in a trial underway on the Haitian issues. It has been an effective policy, and I think it firms up the kind of policy that is necessary, that we will take steps to control our borders.

Interdiction has been very effective. I understand they interdicted another boat, but it was largely an S O S situation, where they again saved lives. The litigation task force, which we created in the fall, ties into the legislation where it is so important to be able to move this process along.

The delays and the bogged down process has been a very, very serious problem, and we must improve it. I think we made some good progress in Florida and other areas, to move the hearings. The Attorney General and Judge Spellman have done a good job to get pro bono lawyers, since lawyers were not forthcoming from the private bar.

We are trying to modernize the court system within INS, also. We see that as an action underway. Administratively, that is essential, but also to tie in with improved processing under statutory change.

We have developed a draft contingency plan for mass immigration emergencies. We hope we do not have to face that, but if we do, we will be better equipped than in the past to deal with that kind of problem. It is a very important thing. We are dealing with Justice and other law enforcement agencies in that regard.

User fees—we are in the process of developing, internally, a user fee increase that we see bringing in substantial additional dollars to the Federal treasury. We expect to be publishing some of these fees within the next several months, with the idea of implementing that by the end of this next fiscal year. We think it is overdue, necessary, and something that we do plan to go forward with.

The overtime repeal, we think it is important. We currently have the 1911 act for Customs, and the 1931 act for Immigration, that are different from the 1945 Overtime Act for all other Federal employees. We do not think there is any policy, moral basis, or other basis to have that different, so we are proposing that the administration propose that those 1931 and 1911 acts be repealed and merged into the 1945 act.

We are going to be proposing, jointly with Customs, a single bill because currently we have two different bills going through in a key area that I know the union would agree on, at this point, whether they would agree on the overtime bill, that they have to be tied together. We cannot have Customs or INS possibly being taken off alone with the other keeping special overtime. We ought to tie it together, but we think it should be done with some provision for portal-to-portal pay, when people are called out in the middle of the night. We think that could save several dollars, and fit into the President's philosophy of avoiding some of the overregulation and the really wasted Government dollars in that sense.

In the enforcement area, we will talk more about those later, but some of the aspects we are performing are underway, and are to better target our resources. We recognize our limits and our resources, but we think we can do a better job of working on a number of programs in the high-employment areas, and for the illegal aliens. We are moving forward in that area, and we are having some good results.

I will leave it at that point, Mr. Chairman, and I would be happy to answer any of your questions.

Senator SIMPSON. Thank you very much, Al.

HHS TRANSFER

Those are helpful things, and you are obviously bringing to fruition some of the things you discussed when you and I first met, many, many weeks ago, and I will be appreciative of progress reports at any time you would want to render those, and perhaps we could even assure that we do that on the record with updates from time to time.

The fiscal year 1983 budget calls for this transfer from Health and Human Services to INS of the reception, processing and care for Cuban and Haitian entrants with 57 positions and $58.7 million. The budget justification indicates this funding will support the program for 700 persons year round, through individually rotating slots, as I see it.

In other words, this activity iw to provide services for newly arriving Cubans and Haitians, as well as those already in detention. Yet we know there are virtually very few Cubans coming in, and that the interdiction program, as you expressed, has been effective and has actually served another humanitarian purpose today with what occurred. I am not certain how many deaths there were, but there would have indeed been more without the assistance of the Coast Guard.

We have Haitian arrivals decreasing to around 40 a month. I would therefore inquire, in coming up with that funding level of $58.7 million, how many new entrants do you assume will be involved in that program?

Mr. NELSON. Mr. Chairman, on that particular program, the $58.7 million is basically a transfer from the HHS to INS, pursuant to the President's Executive order several months ago, and is dealing primarily with the existing caseload of Cubans, and some of the Haitians, as far as the Health and Human Services type of services. It is a caretaker type of program for those who are here.

We really do not anticipate that this is directed to many new entrants.

Senator SIMPSON. So it just handles those Cubans and Haitians who are known to us at this time?

Mr. NELSON. Basically that's correct.

Senator SIMPSON. Does that figure include the funds for the care and maintenance of the Cubans and Haitians at the Atlanta, Krome North, and Fort Allen facilities, and if not, what is the additional cost, beyond that $58.7 million to operate those facilities?

Mr. **Nelson**. Of that $58.7 million, about $6.5 million relates to Krome and $4.4 to Fort Allen which is really the HHS part of the service to those. The other INS detention is in other moneys. And, of course, we have the amendment in December that related to additional moneys for permanent detention facilities. But this does relate to Atlanta, Krome, and Allen.

Senator **Simpson**. What then is the average cost of the INS per entrant slot for fiscal year 1983? How does that differ among the three detention facilities, and if it does, I would be interested in what that is?

Mr. **Nelson**. Mr. Chairman, the figures—we have figures for Krome and Fort Allen. We do not for Atlanta.

Now, we could get that at a later point. But the Krome figure per detainee is $28, and the Fort Allen is $50. That is what—on per day, excuse me.

Senator **Simpson**. What is that again?

Mr. **Nelson**. $28 for Krome per day figure for detainee, and Fort Allen is $50. I might indicate those figures have dropped. At least Fort Allen, where there was a lot of startup cost in the initial amount, so it has come down.

I do not, as I say, have the Atlanta figures. We could certainly obtain those.

[The following was received for the record:]

AVERAGE COSTS FOR DETAINEES

What is the average cost per detainee in fiscal year 1983 for Krome, Fort Allen, and Atlanta?

Average costs for one man-day of detention in these three facilities are:

Facility	Average cost per man-day	Comments
Krome North	$23	Fiscal year 1981 average cost.
Fort Allen	62	Based on 6-mo. actual figures. Includes salaries, benefits and travel for detailed staff.
Atlanta	26	Actual for 1st quarter fiscal year 1982. Actual for quarter ending Mar. 31, 1982 should be significantly higher because of increased staff.

PERMANENT DETENTION FACILITY

Senator **Simpson**. Would that cost differ if those persons were moved to the permanent detention facility which you have proposed, and if so, in what numbers, and in what manner?

Mr. **Nelson**. We would expect there would be a reduction. Certainly there would be some initial start up cost in a new facility. So that would have to be counted in. But after those start up costs, we would expect that there would be some drop in these per day costs. I do not know that we really have any firm projection at this time, Mr. Chairman, as to what those would be.

Senator **Simpson**. If you do have, you might share that at a future time.

Mr. Nelson. Yes, sir, I would be happy to do that.

[The following was received for the record:]

Average Cost for Detainees in Permanent Facility

By how much would the average cost of detention per detainee decrease if we could move all the detainees from Krome, Fort Allen and Atlanta to a permanent detention facility?

Assuming the following daily population at these facilities, the average per capita cost is estimated at $36.25.

Facility	Population	Average	Daily cost
Krome North	600	$23	$13,900
Fort Allen	790	62	49,000
Atlanta	1,300	26	34,600
Total	2,690	36	97,500

A permanent INS facility would enable the Service to consolidate the detention of longer term detainees. This should improve the efficiency of detention operations. INS is now in the process of finalizing site selection and defining the potential population mix at the proposed permanent detention facility. Site selection and alien population are determining factors in projecting accurate per capita costs.

AUTHORIZATION LANGUAGE

Senator Simpson. The authorization language you have proposed would delete the provision in the fiscal year 1982 continuing resolution which stipulates that the Attorney General shall exercise his best efforts to insure that the total number of aliens detained to Krome North, or any other facility located in the State of Florida, does not exceed 525, you remember that very well?

Mr. Nelson. Yes, sir.

Senator Simpson. How would you respond to those of my colleagues who might wish to retain that language in the fiscal year 1983 Authorization Act?

Mr. Nelson. Well, I would be very kind about it.

Senator Simpson. Try to keep a civil tongue in your head when you are doing that. [Laughter.]

Mr. Nelson. Yes, sir, in that regard I would hope—I certainly understand their concerns. We all have the same concerns, but I think if we are going to have an effective detention policy we must have some flexibility. We have the situation in Krome where in August or September, we had some 1,600 detainees in that facility. It is now down to approximately 600. Tremendous reductions.

Even the Federal Court that was dealing with some environmental concerns, a number of months ago, was talking about a 1,000 figure. So the 525, we believe, is, frankly, low. We would hope that while there might be some language retained, that it be kept flexible so that we have the ability to move people in and out, and we do hope, with the exclusion hearings that should begin shortly, that we will in fact be able to process some people, either they would be released to be here permanently as asylees, or would be returned to Haiti, and that we would have the ability to move people in, because counsel are down there. This is one of the problems.

We had to recently plan to move 150 to Arizona from New York, because they had to clear out in New York some real prison facilities, because of another court order on numbers and splitting of adults and children, and the only space available was in Arizona.

Now, it would have been much more desirable if we could have moved those to Krome, because they are near counsel, and near processing.

In answer to your colleagues, we would hope, if any language remained, it could be in terms of very flexible language, and again the courts are involved in this, so we have a lot of people looking over our shoulder.

I do not think there is too much danger that you are going to see an abuse of the facility there.

Senator SIMPSON. I think I noted that in my trip to Krome North it is very clear that counsel is available at every step of every single proceeding in that facility. I do not think you would see that in any comparable facility comparable anywhere in the world, where in three languages, Spanish and Creole and English, at such diverse places as the medical facilities, or the recreational facilities, this continual reference to the right of counsel is very real.

Mr. NELSON. Right.

INVESTIGATIONS

Senator SIMPSON. Well, I am concerned still about the insufficient resource and manpower levels for the investigations program, since that constitutes a major portion of the interior enforcement effort, and focuses on the areas of employment.

I do see the 1981 accomplishments in that area. The apprehension of the 62,000 illegal immigrants who were employed and earning in excess of $469 million annually, as well as the apprehension of 1,776 more who were receiving some sort of welfare or other public assistance. Yet I am most concerned to see that apprehensions arising from the area controlled decreased from 105,000 in 1980 to 93,000 in 1981, and that investigative case work completed decreased from 71,221 in 1980 to 39,055 in 1981.

How are we to justify the reduction of workyears from 705 in 1981 to 596 in 1983, when the investigations program is really our only means to achieve interior enforcement, and what would be the effect on that program if additional permanent positions were authorized for fiscal year 1983, realizing fully, you know, that money itself is not going to serve to solve our problems in that sense, but I would appreciate your thoughts.

Mr. NELSON. I appreciate that question and that comment, Mr. Chairman. Obviously there is a tremendous need out there, as we all know, in all aspects of enforcement. There is always a question of the dollars and the manpower. But we do feel that in a lot of the things we can and are starting to do more effectively in some of this targeting that I mentioned, we can do a better job maybe with what we have to increase our area control operations, and that this can be effective.

Also, of course, a very key thing, we think, as you are proposing, is the employers sanction law. This will meet a very important need, and if we have that, along with some better targeting of what we have, we can do a very effective job.

As far as additional positions, I suppose like everyone, if you had them you would use them. No question about it. But we think on balance that we have a good budget, and that we can do a good deal with what we do have.

INTERIOR ENFORCEMENT

Senator **Simpson**. What criteria will the INS use in targeting interior enforcement efforts in the fiscal year? Are you going to concentrate on areas according to the wages paid, the size of the business, or the type of business? What is there that you would wish to share with us for the public record on that?

Mr. **Nelson**. Mr. Chairman, maybe I can defer to Mr. Salgado here, who has been working a great deal on that, and let him explain that, if I might.

Mr. **Salgado**. Mr. Chairman, we are considering numerous factors involved in our interior enforcement, particularly that which addresses area control. I think all factors have to be considered in the total spectrum, such as the percent of aliens that are currently residing in geographical areas, the unemployment rate in geographical areas, the types of industries that are currently existing in those areas, the lead that our investigators do have on employed aliens in area control. We will have to look at the totality of the circumstances, and then we will direct our resources to an appropriate area. Those are some of the areas that we are looking at.

There are currently task forces that are on the drawing board, and are planned, on both a regional, district and national level to address this particular problem, and in the near months we will come before you, hopefully, with some positive results in this area.

Senator **Simpson**. I note that the status verification program focuses investigations on possible fraudulent or excludable petitions for benefits under the INA.

Through these investigations, marriage frauds, document frauds or falsely obtained labor certifications may be exposed. It would appear that as enforcement is strengthened at the border and at ports of entry, more persons might attempt to adjust status fraudulently. Yet, the budget justification indicates a reduction in the workyears for that program, and then goes on to state that the investigations completed will decrease from 12,000 in 1981 to 9,500 in 1983.

Is that decrease in status verification reflective of a policy change regarding those investigations?

Mr. **Nelson**. No, Mr. Chairman. It is certainly not indicative or reflective of any policy change. There is always a question on numbers. I think certainly one of the focal points to be sure that we are dealing with quality cases, and not just deal with numbers, and there is always that question, whether a lot of numbers in the past maybe were not indicative of results.

Certainly, in a lot of the more routine cases, in the status verification, we think that those could maybe be reassigned to others than investigators. That is something that we are exploring, but that is a factor dealing with the budget and manpower constraints.

We need to be sure to deal with a more serious investigative type of case, and make sure that we are doing an effective job on that.

ANTISMUGGLING

Senator **Simpson**. Let me ask you about some of the antismuggling activities. It seems to me that the antismuggling effort would certainly be a high priority, in order to apprehend those who traffic in human beings, as well as to turn back illegal migrants before they have a chance to establish themselves in communities.

Furthermore, this program offers a way to seize the smugglers' vehicles and put them out of their grisly business. Yet the funding for the antismuggling effort is virtually unchanged from the 1981 level, and the work years and positions have actually been cut. Even at the 1981 level, we note that apprehensions of smugglers decreased to 13,939 from fiscal year 1980 level of 16,000.

Can you please explain to the subcommittee why that program has not received greater resources, especially at a time when greater numbers of migrants are expected to be smuggled from Central America through Mexico and into the United States? Your response to that, please?

Mr. **Nelson**. Well, certainly, as a lot of these questions indicate, Mr. Chairman, there is always a difficult balance as to how you best utilize your resources, and that is something certainly that we will be looking at on a regular basis, too.

There is no question that antismuggling is a very important priority, and I agree with you that we can do more in that area and a better job in enforcement.

I might indicate, though, that on the figures regarding the apprehensions, while it is true that they are down, our information is that the conviction rate in numbers is up, and that we have been putting more effort into the prosecution, in obtaining the convictions, and, of course, that is where the payoff is. We think that that is the essential figure to look at. I do not have those figures, and we will make an attempt to get those for you.

[The material subsequently submitted follows:]

ANTISMUGGLING CONVICTION RATIOS

	Fiscal year—			
	1978	1979	1980	1980
Principals apprehended	16,989	18,496	16,238	13,939
Convictions:				
Total	4,488	5,818	5,815	5,907
Felony	1,143	1,293	1,944	1,357
Misdemeanor	3,345	4,525	3,871	4,550
Percent of ratio of total convictions to principals apprehended	26	31	35	42

Mr. **Nelson**. Also, in some of the other efforts in vehicle seizures, the improvements that we made there tie into that. Likewise, the same point I mentioned earlier, Mr. Chairman, the targeting; I think we continually must do a better job in targeting our resources, so we can go after the more significant smuggling activities. No question, it is a big activity. We are seeing probably more

Central American smuggling now, so we need to do a better job there.

Senator SIMPSON. I had an interesting visit with the Attorney General of Mexico, some weeks ago, who expressed a great interest to me in the increased binational support and cooperation against smugglers, and I wonder what will be done in the 1983 fiscal year to increase the cooperation.

Mr. NELSON. That is an excellent question, Mr. Chairman. I appreciate your trip down there. I know it was very productive.

Following your trip, about 3 or 4 weeks ago, Mr. Salgado and Mr. Brandemuehl of the Border Patrol, made a similar visit, and met with the Attorney General, and some of his people, so maybe I will ask Joe to pick up on it.

Senator SIMPSON. I would like to do that.

Mr. SALGADO. It was my second week in my position as the Associate Commissioner for Enforcement. I received an invitation from the First Deputy, Mr. Rosalis, to pay a visit to Mexico and introduce myself. At that time it became apparent that the Assistant Commissioner for the Border Patrol had never, in the history of the Border Patrol, been to Mexico City to meet at that high a level.

Mr. Brandemuehl and Mr. Moreno, who is the Director of our Antismuggling Unit, accompanied me to Mexico City. I had a very interesting conversation with the Attorney General, Mr. Flores and Mr. Rosalis, and we discussed numerous areas of common concern to both of us.

One, naturally, was the antismuggling. Border violence was another one. Extraterritorial prosecution of the smuggler, as well as third country nationals, with which Mexico has a problem on their southern border.

I left there in a very positive tone, indicating to Mr. Rosalis, who is the First Deputy and has operational direction under the Attorney General, that I would submit a proposal to him for joint operations, and a further meeting at a level dealing with our sector chiefs and our district directors to open the lines of communication, so we could formulate the possibility of cotraining our personnel, as well as sharing the flow of information dealing with the smuggling activities on the Mexican border.

A third area which was of interest to the Attorney General and to the First Deputy was that of the technical and technology that we have developed and are using. They expressed an interest to examine some of this technology as it may be important on their southern border. They were suggesting that there may be a regional meeting at their southern border.

Within the next few weeks we will submit a proposal to the First Deputy, Mr. Rosalis, and establish a breakdown in the meetings that will take place at two locations, one in our western region and one in our southern region.

Also, I did have the opportunity to meet with the President of PRI, which is de la Madrid political party, and Mr. Lopez Portillo's party, and established some liaison there. We do hope that we will implement and formulate and structure some liaison so it may be continuous after the Mexican election on July 4, and that these open lines of communication will best serve the Service and the Mexican Government in addressing the antismuggling problem.

Senator SIMPSON. I think that is very important, and I think most Americans should be now aware, that it is interesting that our southern neighbor has the same problems on its southern border as we have on our scuthern border.

Mr. SALGADO. Very true.

Senator SIMPSON. This problem is especially in the oil industry, which is their critical industry, which is to lead them on to the true greatness that is Mexico. Yet those oil workers in those southern fields are being displaced by Salvadorans, Hondurans, and undocumented workers. And the Mexican workers then come to Wyoming and Texas. It is a very interesting issue. The Mexican officials realize it, and they are not trying to intrude on our sovereignty as we revise our laws. I found it very helpful.

The background material you have provided indicates drastic reductions in these recent arrivals of Haitians to south Florida. Yet we hear these reports that smugglers of Haitians are simply becoming more adept and sophisticated in their means of avoiding the INS, and that actually there are more than that per week currently arriving undetected, more than 200 was one report.

I know that so many of the things that we deal with in this remarkable community are nothing more than rumor and high old emotion, but have you received any information which would corroborate those reports? How much of your antismuggling efforts will be focused on south Florida, and will this be an expense of any couthwest border efforts?

SOUTH FLORIDA

Mr. NELSON. Mr. Chairman, in dealing with the numbers of Haitians coming in, it is true there has been a very dramatic decline. In the last 3 months of 1981, there were approximately 40 per month, compared to 400 per month over a similar period a year earlier. A 90-percent drop.

In 1982, I think there were less than 40 in January, 12 in February, and 4 in March, to date, which is almost the end of the month. There is no question as to dramatic decline.

Now, the question you ask, how many are sneaking in. We have no intelligence that indicates that. I am sure some are. With the length of the coast that Florida has, it is unlikely that some are not getting through, but several things I think would question this figure of 200 a week very much.

First of all, Mr. Rudolph Giuliani was down in Haiti a couple of weeks ago. The Coast Guard cutter is sitting somewhere off the northern shore; there appears to be almost no activity of people leaving Haiti, so that any influx would be from the Bahamas.

We know that in the current efforts on drug interdiction down there has greatly slowed with the combined DEA and Customs efforts. We know a lot of planes and boats are just not moving along, or coming into Florida. We would seriously doubt that there is anywhere near this figure coming in.

We would like to have any information that anybody might have on that score, but we would discount that, from out information.

BORDER PATROL

Now, concerning the antismuggling effort in south Florida, in the recent budget amendments, we have 160 additional Border Patrol positions, and 53 of those, or about a third, are going to Florida, will be assigned down there soon. Other than that, there is no other diversion of staff from the southwest border.

Senator **Simpson**. Nor do you intend any diversion at this time?

Mr. **Nelson**. No; we must have some flexibility, but I would not want to say that there would be no shifting. Now, we had detailed people, of course, in the past, and so in a sense there is a temporary diversion of those. But we would not expect other permanent staff diversions.

Senator **Simpson**. During the Cuban crisis, INS had as many as 200 Border Patrol people stationed at Florida at any one time.

How many detailees are currently in Florida, and how many permanent enforcement positions have been added there?

Mr. **Nelson**. As indicated, we were adding 53 additional, out of this new 160 that we received in the budget amendment. There are currently 41 Border Patrol agents in Florida at the present time. Those involve more than the detention aspect, and we are currently underway in training and obtaining new detention and deportation people to take those positions.

Senator **Simpson**. How many of the Border Patrol are currently detailed away from the border area to perform duties in other parts of the country? And you might just tell us for the record, even though the figures are in the budget request, what is the current onboard count of Border Patrol agents, and what will be the count at the end of fiscal year 1982, and also at the end of fiscal year 1983?

Mr. **Nelson**. As to Border Patrol agents detailed in other parts of the country, basically there are none, other than the few task forces that we might bring them in to Washington. That is minimum in number.

The total count, Mr. Chairman, we have 2,366 currently onboard, and we expect by the end of this fiscal year to fill the additional vacancies of about 359 positions, to bring our total up to 2,600 roughly, and that is a constant figure under the 1983 budget, also.

Senator **Simpson**. We know that OMB at previous times has attempted to reprogram the resources appropriated by the Congress for the Border Patrol, in order to absorb other costs within the INS, such as the annual agencywide pay raise.

What likelihood do you foresee of that occurring once again?

Mr. **Nelson**. I have heard no rumbles from OMB, Mr. Chairman, in that regard, or from Justice or anyone else. I guess we always have to do our internal budget and program negotiations, and sometimes battles. But I do not expect to see any significant efforts in that regard, by my best estimates, at this point.

Senator **Simpson**. You have also indicated that presently your apprehension statistics are the best measure of goal accomplishment for the Border Patrol. Yet we see that those apprehension statistics for 1981 and 1980 are significantly lower than 1979, despite a stable level of authorized positions and increases in workyears and funding.

Since you have not asked for any increase in the number of permanent positions, on what basis do you project that apprehensions will increase from the 745,000 in fiscal year 1981 to your estimate of—which is about 1,100,000 in fiscal year 1983?

Mr. **Nelson**. The information that I have received, Mr. Chairman, shows the decline in 1980 was due to a number of factors. One, with the census taking place that year, there was a great pullback in some of the enforcement efforts.

Also, that was the year of the Mariel boatlift, which took a lot of the resources away from other duties. We, of course, currently under the new budget numbers, and the additional slots available, will have more Border Patrol agents on duty, so the increased numbers would help in the increased number of apprehensions, and also we have improved in terms of the number of technology changes.

We have obtained some additional helicopters, and fixed-wing aircraft, the heat-sensitive scopes, and we take all these together, and maybe a little more morale and esprit de corps, in the figures that we are projecting.

Senator **Simpson**. You stated that an increase of 160 Border Patrol positions would result in an increase of 80,000 apprehensions, at a cost of $5.5 million.

In your mind, would that provide substantial improvement in the effectiveness of the program, and what is the attitude toward absorbing such an increase?

Mr. **Nelson**. Well, we certainly do think it would provide a substantial improvement. As far as absorbing the increase, I guess it is something that we would have to deal with.

Senator **Simpson**. You could also do that, of course?

Mr. **Nelson**. Yes; certainly.

Senator **Simpson**. I am sure anyone here in this city could always absorb an increase, somehow, in this budget.

Mr. **Nelson**. Right.

INSPECTIONS

Senator **Simpson**. In listing the priorities that the Service has ranked, we had your first priority there, was on your chart, was——

Mr. **Nelson**. I think it was inspections.

Senator **Simpson**. It was inspections.

Mr. **Nelson**. They are really quite parallel.

Senator **Simpson**. You had a couple there. I cannot remember exactly.

Mr. **Nelson**. It is also on page 4 of our testimony.

Senator **Simpson**. Yes; anyway, the inspections program is near the top.

Mr. **Nelson**. Yes, sir.

Senator **Simpson**. And yet it seems that the funding and manpower allocated for that program in 1983 would contradict that policy decision. For if I compared last year's fiscal 1981 levels to the fiscal year 1983 request, I see there is a reduction of 200 permanent positions, an increase of only 9 workyears, and a reduction of almost $3 million.

In view of the fact that the inspections workload is constantly increasing, will that reduction result, as was indicated last year, in severe strains on the efficiency and effectiveness of the inspections program?

Mr. **Nelson**. First of all, on the figures, and maybe Ms. Meissner can straighten me out if I am wrong. Of course, there had been a very significant cutback a few years back, and there has been a reprograming there, which brings us back better, or closer to where we were before. So where you start is a factor in a lot of these things, too.

When you feel, again, that our program aspects can improve, such as coopêration with Customs. We are working to do a better job in incorporating a number of joint ventures with them. The use of profiles, which I mentioned earlier, some new techniques, some better allocation of our resources, and other efficiencies can improve upon this. You do point out a problem area, but we do think these can greatly enhance it. Doris, you might want to elaborate on that, or Andy.

Ms. **Meissner**. The reason that inspections was listed as our first priority was because our 1983 budget carries forward our 1982 budget. In 1982, it was of paramount importance to us that the 200 temporary positions that had earlier been dropped from the budget, in fact be replaced, and that did occur with the continuing resolution amendment in December, and this budget reflects that.

Senator **Simpson**. Then you will be compensating somewhat with part-time and temporary inspectors, is that not correct?

Mr. **Nelson**. That is correct.

Senator **Simpson**. Do you feel that will be difficult to bridge the gap with regard to experience of those temporary or part-time inspectors in comparison to permanent, full-time officers?

Mr. **Nelson**. We think it is an effective use of resources. I know you will hear from Mr. Harpold later, who will give you a strong pitch to the contrary, but we think it is a management flexibility that is important, for better use of manpower in certain situations, on workload basis and others. Training is always a question, but we think there is sufficient training for the temporary people, and it is not an attempt to replace permanents, but it is a supplemental activity, and we think it is important to management flexibility to have that.

Senator **Simpson**. Let us say that rather than hiring seasonal temporary or part-time inspectors, might it not be more efficient in the long run to restore, say, those permanent positions, and utilize the adjudication skills of those inspectors during slow periods to address the current backlog of some 300,000?

Mr. **Nelson**. Well, that is a debatable point on the management approach, but again we do think the flexibility is an important thing, so we think we ought to have the ability to use the temporaries, and in some cases that might be a more effective use of the resources.

So, I would hate to lock ourselves in, in going with the permanents. There is no question that you need to have some flexibility in allocation of work, so they can be busy in doing a number of functions.

Senator **Simpson**. And with regard to those functions, would you continue this practice if inspectors have, in the past, completed a good percentage of adjudications workload during slow periods?

Mr. **Nelson**. Yes; we would, of course.

1931 OVERTIME ACT

Senator **Simpson**. Obviously, you do still intend to ask for repeal of the 1931 Overtime Act for INS employees.

How much savings would be achieved there, and how would that policy affect the INS inspectors? Have you discussed that issue with the union, in order to find an acceptable compromise?

Mr. **Nelson**. As I indicated earlier, Mr. Chairman, we do intend to ask for the repeal. Of course, that has been an administration position in the past. As I stated, it is essential that that be tied to the repeal of the 1911 Customs Overtime Act, as the only solid way to do it, and we hope to pursue that through the administration and the Congress, to get a bill to that effect.

There are existing bills, as I say, before the Congress, tied into the authorization for INS, and a separate bill for customs.

As to savings, we estimate between $4.5 and $5.2 million annually. As to affecting inspectors, yes, there would, no question, be an effect on the inspectors who receive some overtime. But you get a different view of figures, I think with the one change we talked about, of allowing portal-to-portal pay to cover somebody having to leave home and drive an hour to get to an airport, or seaport, put an hour in, and then another hour home, so that they can compensate for that portal-to-portal time. With that change, that would be more equitable, and a lot would not be losing the kind of money that they have.

As you know, there is a current cap of $20,000 on overtime; that was a result of a lot of concern as to the amounts earned. But an interesting point, in recently interviewing people for the Directors' positions, on at least two occasions it came out in the course of conversation, that some of our people now in the higher level of management had not moved into higher management because it hurt them in the pocketbook. I think that is a feature in our organization that needs to be addressed.

So we think it is equitable and proper, good fiscal policy and good management that there be such a repeal, and replace it with the 1945 act, as amended, as I indicate, and that that would be fair.

As far as talking to the union about it, Mr. Harpold was present, of course, at the earlier authorization hearings in the House, as he is here today, so he has heard what I have been saying. I have met with him on numerous occasions, and informally told him the same thing. So we have discussed it. They know our position.

I am sure the union has a contrary position. I do not think it is a negotiable kind of matter in that regard. We would, of course, love the union to agree to support such a piece of legislation, but I think it is really a matter for the Congress to determine that at this point.

ADJUDICATIONS

Senator **Simpson**. Well, we will hear his report of it.

The important thing is, at least you are communicating on that.

As my wife says, even when we are arguing, we are communicating.

I have heard, and not only heard, but seen some of the results of this up-front adjudication program in Miami. We have good reports that come to the subcommittee on the up-front adjudications program, which seeks to process as much of that work as possible, as soon as it is brought or mailed to the INS offices.

I think that is an important step, as to public perceptions of the Service, and yet I notice at the end of 1981, there was this adjudications backlog of 314,000 cases.

How will we realistically expect the Service to reach the goal of reducing this backlog to 90 or 120,000 cases, when there is a decrease of 140 permanent adjudications positions from 1981 to 1983, in addition to the decrease of the 200 inspectors who also do these adjudications?

Mr. **Nelson**. Again, I think the number of the techniques underway will be of great assistance in that regard, Mr. Chairman. The up-front, as you indicated, has been effective. We expect to expand that.

The remoting of adjudications to some of the remote adjudications centers, where that can be done effectively, away from the hubbub, we think is good, and can be increased. We expect shortly to propose—we are considering now some changes in the length of stay for visitors, for tourists, which can make for some efficiencies, and some of the computer things we are talking about will also assist in this area.

So we think there are a lot of things that can be done, and that must be done, to make our job more effective and efficient in that area, and that itself can do a great deal in dealing with that.

I might let Mr. Carmichael supplement this. He is closer to that.

Senator **Simpson**. Please.

Mr. **Carmichael**. Thank you, Mr. Chairman.

The reports on up-front adjudications are quite good, and as the Commissioner has said, that is only one of a good many efficiencies that we are already putting into place, and have in mind for the near future.

The backlog, or pending caseload of 314,000, represents just over 2 months' receipts. There are a 1.8 million applications received each year.

What we would like to do is get that figure down to, certainly 120,000 to 150,000, which after all is only 30 days' receipts, and we would think a current situation. So we think we can do it. We have aimed high.

ASYLUM APPLICATIONS

Senator **Simpson**. Well, that is good.

In this adjudications backlog, are the 106,000 pending asylum claims included?

Mr. **Carmichael**. No, sir, they are not. That is a separate pending workload.

Senator **Simpson**. Will the INS be taking any definitive steps to reduce that asylum backlog in the interim before any new asylum legislation is enacted?

What might you expect the backlog to be at the end of 1982, in the absence of such reforms, and how many new asylum claims might you anticipate for 1983? That has been something that has certainly intrigued me in my duties here.

Mr. **Nelson**. That certainly intrigues all of us, Mr. Chairman. It is a very interesting aspect of some concern as I think you well know.

A few years ago we maybe talked about 5,000 or 10,000 asylum claims. Currently we are over 100,000. Continual increase in the number. No way to project it. A lot will depend, I think, on world events, on how the courts might react to it, and certainly the key to all that is the asylum legislation that you referred to, and the absolute necessity of that.

It seems that asylum now is a new vehicle to go around the immigration laws. While people have a right, and of course, under the Refugee Act and the UN protocol, the right to asylum is there, and should be, yet the great increase in numbers, I think, is clearly an indication that people are using this as a vehicle to gain entry, and it is something we definitely have to deal with in the legislative arena as well as administratively.

We made a lot of steps to increase the numbers we are processing, and we are not even keeping pace with the growth. So it is going to be a big problem.

We also see a very interesting thing, certainly true of a lot of the Salvadorans and others, who do not come knocking on the door and asking for asylum. They enter the country surreptitiously, and are apprehended for one reason or another, months and maybe years later, and at that time claim asylum.

We think that is an interesting phenomenon, and certainly ties into the whole problem. But it is not an easy thing, and administratively we are in a great deal of trouble to cut back a great deal on the numbers with the growth that we are seeing.

Senator **Simpson**. Yes, it is a figure that we never really crank in as we deal with immigration and refugee issues, and as long as we really forget to crank it in, it is indeed a diversion. In my mind, it is a misuse of the system, especially when you consider that under the present system the asylum applicant receives much more due process, if you will, than any citizen in the United States would ever receive.

We want to keep close tabs on that. And so you really cannot possibly anticipate how many we will have. But I am sure unless we have reform, we are going to have a great deal more. I think we can all concur with that.

Mr. **Nelson**. I would certainly agree with that.

Senator **Simpson**. Some of us who have an inherent distaste for the policy of long-term detention pending adjudication, also have some reservations about the loss of control that ensues when these asylum applicants are released into the community.

What are the statistics on asylum applicant who fail to show up for their hearings and simply go underground?

Mr. **Nelson**. That, no question, Mr. Chairman, is a problem, whether in asylum or otherwise. Once they are away from the process, obviously it is not desirable for them, in many cases, to show up, because there is danger they will be found not to be entitled to be here. So there is a problem on those asylum applicants being released.

I might ask Mr. Inman, our General Counsel, who has been dealing with this very matter in Florida, to elaborate on that.

Mr. **Inman**. Mr. Chairman, the issue has been presented to us right now, relative to the Haitians in Krome North, in Florida, and we have gone into extensive studies as to how many of the Haitians who have been paroled have returned when their cases have been called up, and have compared the numbers with the entire population of aliens that have been paroled and have turned up.

The initial statements that we have, have been made by Mr. Wampler who is the U.S. attorney in Miami. His initial statement made to Judge Spellman was approximately 90 percent of the Haitian parolees did not show up when their case was called.

Our figures were arrived at, and they are not the same as Mr. Wampler's, by using a far more conservative approach. We tried to eliminate any possible error where there might be a misdirection in mail, or an address that in effect was not accurate.

With respect to the calculations we have made, we have found that of Haitians, 76.5 percent of those paroled, did not show up when their case was called. This compares with 35 percent of the population as a whole, of aliens who in effect failed to show up. So roughly 65 percent of the population in general shows up when their case is called, but only 23½ percent of those Haitians show up when their case is called.

This is of extreme concern to us, with respect to this particular program, and that is why we have detained, in accordance with the guidelines announced by the Commissioner.

Senator **Simpson**. Well, hopefully we can resolve that situation, and especially for those who are the long-term detention.

One of the things we are looking into is to get rid of that type of facility, while acknowledging the need for a permanent detention facility. We must also somehow deal with those Haitians in Krome in some accelerated way, that is my fond hope and the voluntary agencies have responded, and continue to respond. But I think one of the key things here is that if we go into the type of program where the voluntary agencies then sponsor these persons, even at their own expense, which is an offer now, that the critical part is that the paroleas then be delivered at the time of hearing.

Mr. **Nelson**. Right.

Senator **Simpson**. Because that is often not the case, for even when they are in the hands of responsible people, they are told not to appear. That is a direct flaunting of everything we know is important in our system.

Well, may we take a 5-minute break, please, and we will reconvene in just exactly 5 minutes.

[Whereupon, at 2:55 p.m., a recess was taken.]

[Whereupon, at 2:59 the subcommittee reconvened.]

Senator **SIMPSON**. Just back to a bit more on the asylum issue. If we could just touch on the alleged perception of discrimination among nationalities. Are we presently detaining all applicants for asylum, or just Haitians, as some would claim?

Mr. **NELSON**. Mr. Chairman, we believe our policy is consistent and across the board. Of course, we are not necessarily detaining all applicants for asylum. A lot depends on the deportation syndrome, or the exclusion syndrome. For those that are excludable aliens, section 235(b) of the INA indicates they shall be detained basically, and we are adhering to that policy.

We are in a trial currently in Florida. I am heading down tomorrow to testify, and that is one of the issues being addressed in that lawsuit. We believe our policy is across the board. Certainly our guidelines that have been out in the field make that clear.

We know that there have been charges to the contrary, but we do not think those are correct. That has been where a lot of the problem has been, and that is the reason that there has been some focus on Haitians.

Senator **SIMPSON**. Now, just for the purposes of this record, you might just briefly tell us what the status is on the asylum hearings in Florida, where you are with that.

Mr. **NELSON**. Again, I might defer you to Mr. Inman, if he is here—he is not here right now.

Senator **SIMPSON**. Ah-hah. He knew.

Mr. **NELSON**. He snuck out on me. All right.

I can address that.

Senator **SIMPSON**. Well, you might furnish that for the record.

Mr. **NELSON**. I think I can address it, generally, Mr. Chairman.

The trial, of course, is in Federal district court. We did receive approval by the judge, Judge Spellman, of the Federal district court in Florida, a few weeks ago, to go forward on the exclusion hearings. They have been held up in this whole legal logjam. We have the blessing, irrespective of how the trial comes out right now.

We have the courtrooms available, we have the INS lawyers, the immigration judges, we have lined up reporters and translators, and of course with this pro bono program that the Attorney General initiated by writing to the Dade County Bar, has been implemented, particularly with Judge Spellman's good efforts to really get it going, we have several hundred lawyers in South Florida who will be representing the Haitians. So everything is ready to go.

There is a month or so processing time. Our current estimate is about the latter part of April, early May, we should be able to get underway with many, many hearings. Up to now it has been a dribble of hearings.

You just missed out, Mr. Inman. You had a chance. Do you want to straighten that one out?

Mr. **INMAN**. You were perfect.

Mr. **NELSON**. It is nice of you to say that.

NATURALIZATION

Senator **Simpson**. Of course, as we focus on reforms in enforcement, we should never lose sight of the fact that naturalization benefits are one of the most important services provided by the Immigration and Naturalization Service for immigrants.

What is the current naturalization backlog? What goal do you have for reducing that, and how would that be accomplished?

Mr. **Nelson**. Let me first say, Mr. Chairman, that it is absolutely right that naturalization is very important, and that is probably one of the areas in INS that everybody wins on, and we are very proud of that, and we want to do an even better job than we have done in the past, to really give a good impression throughout the country, not only to the people being naturalized, but the efforts of the Service to the country, and we think we can give more effective attention on the benefits of the naturalization.

So we will do a lot more in that area. Let me ask Mr. Carmichael to give the specific answer to the numbers.

Mr. **Carmichael**. Mr. Chairman, the backlog, or the pending cases, the workload in naturalization right now is 143,000 applications, representing an overall 6 months' receipts.

Now, the naturalization program was the principal beneficiary of the efficiency bill, which was enacted late last year, and I am pleased to report that in the very first month following its enactment, backlogs have leveled and have come down somewhat.

Now, these are not remarkable reductions yet. But we have turned the corner, and I think it has stopped the past trend of backlogs in naturalization, and we are hopeful that that will continue.

Another thing I can point out with respect to the 1983 budget is that in the past, while the naturalization program has had more authorized positions, its funding level was somewhat below that. In 1983 it will be funded at full strength.

Now, we are doing all of this, at the same time that we are working very closely with the General Counsel in a transition of the program into a nonattorney type program. Yet we will still be able to achieve these gains, and we think it is good news, Mr. Chairman.

DETENTION

Senator **Simpson**. Indeed, that is good news to us on the subcommittee, and I am pleased the Efficiency Act has already had some impact. I certainly remember working with Ms. Meissner in previous administrations on that one, as well as with both Ms. Meissner and Alan Nelson in this administration. Those are the kinds of results we hoped to see, and that is heartening to me, indeed.

Over the past 3 years, the INS detention budget has risen from $22 million to $49 million in 1982, and now to $53 million in 1983. How much of those increased funds are attributable to the detention of Cuban-Haitian entrants?

Mr. **Nelson**. Mr. Chairman, of those amounts, $30 million for Krome and Fort Allen, are related to that.

Now, Mr. Brien, you might want to elaborate on that.

Mr. Brien. Mr. Chairman, the cost of the Krome facility will run about $9 million, while the Fort Allen facility will be about $21 million. So overall, as the Commissioner said, it would be about $30 million, which would take care of the detention at those two facilities.

Senator Simpson. How about the other facilities?

Mr. Brien. The other facilities would be the difference between the $53 million and $30 million. The cost of the other facilities would be paid out of the additional.

Senator Simpson. What is the next highest cost facility?

Mr. Brien. We spend about $11 per day, for example, at the El Centro facility. About $16 per day at the El Paso facility, and about $17 a day at the Port Isabel facility.

Senator Simpson. And Fort Allen is the most expensive?

Mr. Brien. Yes; because there is a cap on the population of Allen. Under the agreement we cannot have in excess of 800 Haitians at the facility. So that has a tendency to keep the cost up.

Senator Simpson. What are the INS policy assumptions regarding detention for fiscal year 1983? Will all aliens without documents be detained? Under what circumstances would bonds be posted, and when would bond be denied? Will that detention policy be enforced without regard to national origin, and I think you are indicating that that is being done now?

Could you just briefly respond to those series of questions?

Mr. Nelson. Yes, Mr. Chairman, we believe our policy is across the board, and that for those in exclusion proceedings, coming in across the border without any kind of documentation, the existing policy will continue in fiscal year 1983.

As to those being bonded, or subject to be bonded, or those in the deportation process, where they would have been apprehended sometime after having been in the United States, then they would have the opportunity for bond as we currently do, and again we treat across the board.

So it is certainly our policy to continue the detention policy under section 235, as indicated before, but to do it in an across the board and fair way.

Senator Simpson. I know we have discussed a bit those figures and costs, and per detainee day, and so on. For my own clarification, it seems to me there seems to be two overlapping detention programs in the fiscal year 1983 budget.

We have the entrant reception and processing program, which is this $58.7 million, for an average number of 700 aliens in detention per day, and then we have the detention program which provides $53.3 million for an average number of 3,700 aliens in detention per day.

What is the difference there, and why is that cost difference so marked, about $83,000 annually per alien slot for the former program, and $14,000 annually per alien slot for the latter?

Do you have average daily cost for detaining aliens in non-INS facilities? I would be interested in that.

Mr. Nelson. On the $58.7 million, Mr. Chairman, that relates to the Cuban detainees that were at Fort Chaffee, Ark., that have been transferred now from HHS to us, and that is high cost custodial care. Those are mentally ill, who are in the Springfield, Mo., facility, and those who are incarcerated in the Atlanta Penitentiary. That is a very high cost item and, of course, that will be an ongoing kind of cost.

The rest of the—the second point, the detention at the 14,000 per slot, is the other detention. These are the costs that just are not as much. There is a difference there.

As far as the average cost for detaining aliens in a non-INS facility, I think Mr. Brien indicated it is about $18 per day.

DEPORTATION

Senator **Simpson**. And just a quick shot on deportation. The budget document states that nearly 79 percent of the aliens expelled in 1981, who incurred travel expense, were removed at Government expense.

What was the total cost of that travel to the Federal Government, and how does it break down per alien, and what would be your projections in that regard for fiscal year 1983?

Mr. **Nelson**. Mr. Chairman, I might refer that to either Mr. Salgado or Mr. Brien.

Mr. **Salgado**. Mr. Chairman, our figures indicate that travel alone is $8.6 million, and I gather our projections are going to remain consistently in that ball park, if not greater.

We did break it down to travel expenses for Mexicans, it is apparently $16.38, and as to OTM, that is other than Mexican, $29.89, I believe.

Senator **Simpson**. Could you give us a quick-status report on the contingency plans that the Service is developing to handle any potential future mass, first-asylum crisis, without going into any classified information?

Mr. **Nelson**. We have, as I indicated, Mr. Chairman, developed a draft of the contingency plan. That has been forwarded to the Department of Justice. There are other pieces coming in from other departments throughout Government, to be able to deal with the Mariel kind of problem, should that occur again.

It is really, again, having a varying number of options, key contact persons, specific responsibilities to deal with any of these kinds of aspects that might occur again.

I think we are in a position, should it happen, to be able to respond much more effectively than in the past. I am sure we can and will do more than we have, to enhance that.

Likewise, in the detention part of that, to avoid the problems and hassles that we had last year, to have available space, we are working on and making progress to obtain a number of backup detention sites, should there be a major influx, which we can get to, whether it be military base, or others, to use on a short-term basis, short-notice basis, if the need develops.

USER FEES

Senator **Simpson**. You have mentioned the issue of user fees for INS services. What will the Service be doing to raise resources by increasing or initiating those user fees? I guess what I am principally interested in is what this subcommittee might do to assure that the revenues that come from user fees will go to the INS for its operations, rather than into the General Treasury?

Mr. NELSON. I might ask Mr. Kennedy to answer that. He and his group have been working diligently on that subject.

Mr. KENNEDY. If I could take the first part of the user fee study first. We are following the procedures of the OMB Circular A-25, and taking a strict interpretation of recoverable costs. As a result, we are going back through and studying every single fee, and every fee-type service that we are providing at this time. We expect to substantially increase our collections as a result of that.

At the present time, of course, as you know, we do not collect those into the funds of the INS, but they are turned over to the Treasury of the United States.

Senator SIMPSON. And, of course, it would be appropriate if we could actually assure that those funds which are received and accumulated, could go toward INS operations. That would certainly be your wish, and of course, such receipts would be taken into consideration at the time of budget authorizations and appropriations.

CONTINGENCY FUND

Mr. KENNEDY. If I may just elaborate for a moment.

We will be proposing, it is just that it has not passed OMB, a funding proposal for handling emergency situations, and it would be an emergency fund, which will be cleared through and coming to you shortly, which would allow us some of this collection authorization. We would need the authorization from you at that time whenever that proposal comes forward.

NONIMMIGRANT DOCUMENT CONTROL SYSTEM

Senator SIMPSON. Just a few questions now on automated data processing. Because indeed, as you well expressed, Mr. Commissioner, there is a negative public perception of the INS. The harshest criticism in many cases arises from the manual processing of files. We have all seen pictures of the files, and have heard of the delays, and the rudeness, and the inadequate telephone system. I think you indicate that automated data processing should begin to reduce those harsh criticisms.

Could you explain briefly how the new nonimmigrant document control system will work. When do you think that will be operational, and at what level?

Mr. NELSON. We certainly expect to begin getting that operational, the beginning of 1983. Indeed, maybe I could ask Ms. Meissner and Mr. Kane to elaborate on that.

Ms. MEISSNER. The nonimmigrant document system is, right now, turned out on the street for bids. The contract for that was published in the Commerce Business Daily as of March 17, and we expect bids to be back, and fill out a contract which will, as the Commissioner stated, allow us to have a new system in place in January 1983. That system will go up in stages. It will not be functioning on all groups of nonimmigrants the first of January 1983.

Nevertheless, it will replace the present I-94 system, which, as you may know, is essentially a microfilm system, with a computer based system that has terminals in our district offices. It will simply record the data that a nonimmigrant brings to us when he enters the country, and it will record his departure, along with his country of birth, the country that he comes from, the date that he will remain, and so on.

We will be able to have access to the information, as I said, because it will be on computers by terminals, and we believe that it will bring about a total transformation of our nonimmigrant controls.

VISA WAIVER PROPOSAL

Senator SIMPSON. Last year, I know the Service testified that it would not be possible to gear up a nonimmigrant document control system in a timely and effective fashion to handle the visa waiver proposal.

Is that still your position? How would the reduction of inspectors affect the handling of visa waiver visitors at the ports of entry?

Will that result in greater inefficiency, and even longer lines?

Ms. MEISSNER. I do not recall that we testified that we would not be able to handle the visa waiver program. In fact, we have stated that we will be ready to handle the visa waiver program, assuming that it is not operational, or that the beginning date would not be prior to January 1983.

But we have worked closely with the State Department on putting that proposal together, and we are assuming that an effective date for that legislation would not predate the nonimmigrant document control system that we have been discussing.

As to the handling of nonvisa waiver people at ports of entry, the whole underlying assumption in the visa waiver is that those are people of low threat, and lowest risk to the United States, therefore, we do not presume that they will require any more inspection at ports of entry than presently is the case.

Senator SIMPSON. Where does the Service stand now with regard to the congressional hold placed on its implementation of ADP projects? Has that been lifted now?

Mr. NELSON. I understand that has been lifted, Mr. Chairman.

Senator SIMPSON. And I am sure that that has been a great assistance in your efforts at this point.

Mr. NELSON. I think so. As I understand it, we have made contact with most of the congressional and other oversight organizations, in giving them briefings as to where we stand, and that they have been generally quite receptive to the steps that are underway.

Senator SIMPSON. But I am very concerned that there be this continuing close coordination between the State Department and the Justice Department with regard to the real essence of what is to be accomplished, and that is simply to get a handle on that paperwork flow, to make some rather simple and long overdue corrections. Is this coordination continued between the two departments, two agencies?

Mr. NELSON. Right. We are working well with the State Department, and also with customs, similar coordination.

Senator SIMPSON. That is helpful. And you are linking up the State Department's Automated Visa Lookout System [AVLOS] and the INS system through a new linkage system there, is that correct?

Mr. **Nelson**. Yes. I might ask Mr. Kane, to elaborate briefly on that.

Mr. **Kane**. We have linked the AVLOS system with our Service Lookout and the Tec system. We are testing that system now, and we hope to have it in operation through our ports of entry, in other offices this fiscal year. We have picked up, or obtained about half a million records from State into our system, and that has been accomplished.

I might also add we have pilot models going with State to link our systems with their systems, and we look forward to bringing that pilot on in the system also, to show the transfer of data from State to the Immigration Service and/or Customs.

Senator **Simpson**. So those are long overdue reforms that have just come out of the necessity of getting a handle on things. I think that is very important, at least to the oversight committee, and to those who participate in the budget activities. That is very helpful.

Does the INS currently have the technical personnel necessary to implement those ADP programs for the fiscal year 1983? If not, how many persons must be hired, and when will the full complement of such persons be on board?

Mr. **Nelson**. I can answer generally. Maybe somebody else can elaborate, Mr. Chairman.

For fiscal year 1983, I think the answer is yes, I think there are 24 vacancies, which we expect to fill for the 1983 positions. 1984 is going to be the big year, on a lot of the implementation of this, and there will, no question, need to be some funding of personnel considerations there.

Obviously, this whole ADP process is a long-term one. It will take time. It must be done right, and in an orderly fashion, but we think we are on the right track.

Bob, or Doris do you want to elaborate on that?

Ms. **Meissner**. That essentially gives the picture. We received new positions and new funding in the budget amendment passed in December in the data system area, and those people are being hired at the present time. Until we go into the major new acquisition, which will not be until fiscal year 1984, it should be adequate.

Senator **Simpson**. Well, I've asked a rather wide-ranging array of questions. Let me ask one other here in the area of inspections, and then we will wind up.

INSPECTIONS

How soon do you think you can fill the 20 percent vacancy level in inspections. What has been the delay?

Mr. **Nelson**. Mr. Chairman, our basic game plan, in all vacancies, throughout the system, is to make an effort to fill those by the end of this fiscal year. There had been a freeze on, that has been lifted. We are underway with the recruitment effort, training efforts, and we would make ever effort to fill those vacancies. There will be no holding back intentionally, and we will do all we can.

Of course, there is always some attrition, and whatever that adds to that, we are hopeful of being up to full force as quickly as possible.

HIRING PLAN

Senator **Simpson**. Let me ask you this, as a final question. In light of the unfortunate publicity regarding the INS in these past years, and the things that we all have known and seen and share with each other, as we go forward with new manpower, new management, new clarification of mission, and some of these things that we hear about, are you able to recruit excellent people, who are interested in serving, or interested in participating in the renewal of an agency?

Mr. **Nelson**. It is a good question. I do not really know the answer. Maybe some of the others could comment on that.

I would sort of rely, I guess, on my impression, in my time here to date, that there is a good esprit de corps or the building of that. When I have traveled around and met the people, I think a lot of our areas in recruitment have always been pretty good. So I am not overall concerned that there is a big problem in that area.

I am sure that there are negatives about the organization that might hurt in some regards in initial hiring. I know that we have a fairly high turnover in certain areas. So I hope that we can do things to improve that.

It is a concern, but I do not personally know that that is a big problem.

Please, somebody else may want to elaborate, who has a better handle on that. I would ask Buck Brandemuehl, who has not had a chance to say anything. He put a lot of action in the House last week, but I know you might speak as to border patrol hiring, or other Enforcement hiring.

Mr. **Brandemuehl**. Thank you, Mr. Chairman.

We have not received any animosity at this time. We are looking at our hiring procedures because we do want to get the most professional people that we can in this organization, and I think we can accomplish this.

Thank you.

Senator **Simpson**. OK. I know you were worked over in the House. Ron Mazzoli and I work it so if a witness gets worked over in the House, we work over a different one here. It saves a lot of reporting time.

Well, I guess that is the extent of my inquiries today. I commend all of you in your continuing effort. I can only tell you that I think the focus has shifted to this issue, and no more appropriately in time, in my feeling, than now, and hopefully we can get something done. Certainly what you do with the resources that are given to you is critical, and especially that you make maximum use of not only positions but money. This is so important, and it spooks me up that there is not enough. I want to share that with you.

We will see where we go, and the good Congressman from Kentucky and I will be visiting about that again. I thank you. You are all very dedicated people, because I have come to know many of you personally, and I appreciate it.

Thank you.

Mr. **Nelson**. Thank you, Mr. Chairman, on behalf of all of us.

Senator **Simpson**. We will have a 3-minute recess, and at 3:30 we will resume testimony with Michael Harpold, the President of the National Immigration and Naturalization Council.

[Whereupon, at 3:27 p.m., a short recess was taken.]

[Mr. Nelson's prepared statement and responses to questions submitted by Senator DeConcini follow:]

PREPARED STATEMENT OF ALAN C. NELSON

Mr. Chairman, Members of the Subcommittee:

Today marks the first time I am appearing before the members of this subcommittee as Commissioner of the Immigration and Naturalization Service, and I am confident that it also marks the beginning of a period of cooperation in achieving the major reforms necessary to regain control of our borders, and to establish an orderly immigration process. I am particularly encouraged by the introduction of legislation both in the House and the Senate in support of these major reforms, and by the extensive agreement between that legislation and the Department of Justice's proposals for reform. As the Attorney General noted, while there are differences between the two proposed bills, the Administration looks forward to working with the Congress in designing an effective immigration policy.

As you know, the I&NS fiscal year budget request for 1983 is for $524,599,000 and 10,661 positions. This budget consists of the current fiscal year 1982 funding level with the addition of one new program activity entitled, "Reception, Processing, and Care for Cuban and Haitian Entrants," an activity which has been transferred recently from the Department of Health and Human Services to the Department of Justice by Executive Order. The administration of this program represents 57 positions and $58,735,000 of the budget request. The budget also includes $37,307,000 to fund uncontrollable costs.

Today, I should like to focus my testimony on the three major areas I intend to emphasize as Commissioner of the Immigration and Naturalization Service. These areas are: legislative reform, immigration policy leadership, and effective management. I would like to discuss them in some detail with you today.

Legislative Reform

Reform of our immigration laws is essential to the future effectiveness of the Service. The Administration has set the establishment of a sound immigration policy as a matter of high priority. The Omnibus Immigration Control Act, proposed by the Department of Justice, has been introduced in both Houses of the Congress. This legislation addresses the most serious immigration problems confronting our nation. It provides a means of discouraging illegal immigration through an employer sanction program; increases traditional enforcement efforts both at the border and in the interior; and calls for a new, experimental temporary worker program. It curtails mass arrivals of undocumented aliens by sea by streamlining the procedures for determinations of admissibility and asylum applications, and enables the President to invoke certain powers in order to respond adequately to immigration emergencies. Recognizing that it is unrealistic to remove many illegal aliens already in the U. S. the proposal calls for legalization of illegal aliens who arrived prior to January 1, 1980, to the status of temporary resident. Finally, the legislation proposes increased numerical limitations for immigration from Mexico and Canada, and streamlines the labor certification process to protect American workers against adverse impact from foreign workers.

The urgent cause of national immigration reform was further served by the announcement last week of Congressman Mazzoli and Senator Simpson's legislative proposals. This work represents months of diligent review and analysis and a clear vision of the national interest. It builds on the work of earlier Congresses, particularly the long-standing leadership on this issue displayed by Chairman Rodino. The Administration applauds your efforts. The Simpson - Mazzoli bill is similar in many ways to the Administration proposal and contains the essential elements of comprehensive reform of our laws. I am confident we can work constructively together to achieve effective legislative change.

The Administration remains firmly committed to immigration reform and urges Congress to move quickly in this area.

Our FY 1983 resource request does not include funding estimates for the implementation of new legislation. We are working closely with the Department of Justice and OMB to develop cost estimates for the proposals before you.

Policy

An effective immigration policy requires firm leadership by the executive branch of government. This is especially important as many immigration actions have foreign policy and domestic political ramifications. My goal is to make INS an agency that anticipates upcoming requirements rather than one that merely reacts to situations as they arise.

My policy is one of inter-agency cooperation and coordination with respect to INS activities. I have already established a good working relationship with the Departments of Treasury, State, and Agriculture, especially with the U. S. Customs Service in Treasury and the Bureau of Consular Affairs in the Department of State. All of us recognize that this kind of cooperation is essential if an effective national immigration policy is to be implemented.

Effective Management

My third area of emphasis, Mr. Chairman, is improved and effective management of the Immigration Service, and I would like to devote the major portion of this statement to a discussion of the program we are implementing in INS to achieve major management reform. The overall accountability, responsiveness, and effectiveness of the agency is being addressed by instituting a system of management by objectives which holds senior Service executives directly accountable for achieving management reform in specific program and management areas. This effort focuses on eight broad areas for improvement. These are:

- Improvement in service to the public and elimination of backlogs;
- Improvement in the effectiveness of enforcement activities;
- Improvement in information collection and storage;
- Improvement in personnel management and the organization of the agency;
- Improvement in resource management;

- Effective implementation of legislative initiatives;
- Enhanced inter-agency cooperative efforts; and
- Improvement in hearing procedures.

These improvements will not come about overnight. The goals of the Mission Plan have been translated into specific priorities for FY 1982. I am determined that these reforms will be implemented quickly, yet with sufficient deliberateness to assure that they take hold and make substantive, not just cosmetic differences.

To execute these eight major program objectives, the following steps have been taken: First, the Service has established concrete priorities and assigned responsibility for those priorities to specific executives in the Service. Each priority has a specific timetable associated with achieving each goal, so that we can objectively measure progress. Second, I will personally review the progress achieved in meeting these objectives on a quarterly basis, and require an explanation for lack of progress or a diversion from the implementation schedule. Third, we have tied performance reviews and ratings of our management personnel to the accomplishment of the tasks outlined in our program goals. Finally, we will update our priorities and program objectives annually through a process of re-establishing targets. Thus, this system will be responsive to changing circumstances, such as new legislation, new Administrative initiatives, and/or any immigration related crisis. However, at the same time, I believe the agency will be more rigorously managed and directed, and can effectively demonstrate a commitment toward achieving significant reforms, even in the midst of unexpected crises that our agency will undoubtedly undergo.

In the context of this overall system for managing the activities of the agency, let me discuss some of the specific reforms underway within each of the eight priority areas -- reforms which I believe will be of particular interest to the committee.

Service to the Public and Elimination of Backlogs

First, Mr. Chairman, we are improving our service to the public by streamlining our adjudications processing. We are reducing interview requirements; expanding out test of regional adjudications centers to complete adjudications which do not require personal interviewing; and significantly increasing the total number of adjudications which we handle by means of "upfront" processing at the time of an application for benefits. As you know, the latter process means that an applicant is seen only once and all his business with us is completed without the necessity of rescheduled appointments, second visits, and so forth.

We are also improving service by implementing a standard non-immigrant admissions policy for business visitors and tourists with class B-1 and B-2 visas. Although these proposed regulations are still in the process of being reviewed, we are confident that setting fixed time lengths of stay for these nonproblem visitors will speed the processing of visitors at airports, and will reduce our district office paperwork by eliminating large numbers of unnecessary extensions of stay.

Finally, we have recently completed several studies of improved telephone services to answer more expeditiously the most common questions asked of our personnel at District Offices. We are encouraged by our preliminary results in several cities, and we will expand this program as rapidly [illegible] possible in the future. Such an emphasis will certainly eliminate much of the aggravation felt by many applicants for benefits, who simply need information, and not other services. Furthermore, we are examining the concept of regional telephone centers and similar techniques employed by large organizations with similar missions. Decisions on these proposals will be made in the next several months.

Enforcement Activities

We are improving our enforcement activities in many ways, but most especially by continuing our emphasis on targetting enforcement resources for greatest effectiveness by assigning new and existing resources, to the extent possible to those areas having the highest incidence of illegal entry. Furthermore, we are assuring that sufficient resources are available for removing apprehended aliens at those points, as well as monitoring the use of officer time to ensure that it is appropriately concentrated on direct enforcement activities.

We are also concentrating our investigative resources on what we call area control, that is, investigation of employers of illegal aliens having the greatest potential economic impact in a particular area. In line with this movement toward more strategically critical enforcement activities, we are focusing our anti-smuggling efforts on major violators, particularly in those instances where there is a high likelihood of conspiracies.

Finally, Mr. Chairman, in addition to maintaining sufficient detention space at our existing facilities to ensure adequate detention and deportation capabilities, we are developing plans for the orderly expansion, as needed, of such facilities to cope with possible future emergencies.

Information Collection and Storage

As your committee knows, Mr. Chairman, information collection and storage, data processing, and the use of data in planning our agency's activities, is an area needing dramatic improvements. I am pleased that the Service has completed a long-range, automated data processing plan to establish computerized information systems to allow the Service to make more effective use of information. I am including a brief outline of that plan for the record. The implementation of that plan has already begun. We are installing an interim naturalization and casework support system in Los Angeles, and we shall shortly begin installing a deportable alien deportation system in San Diego. We shall assess these systems as soon as they are operational, to insure their quick transfer to other offices as resources become available.

The Non-Immigrant Document Control system is being developed according to plan and is scheduled for introduction in January, 1983; bids for contract of the system are being received by INS at the present time. The I-94 system backlogs will be eliminated during this calendar year so that information about nonimmigrants in the U. S. will be current and readily available for enforcement and planning purposes within a year. We appreciate the continuing support this committee has given to non-immigrant control and we are pleased to be able to report favorably on our progress.

I know that the committee staff has been briefed recently on our ADP and service improvements efforts so I am pleased that you are fully informed of our activities.

INS Management and Organization

We have just completed an organizational issues and decision process study of the Service. I am reviewing the results of that study in order to effect those changes which I think necessary to enhance Service capabilities. In addition, and as I am sure you are aware, the PMIC study which was recently completed made a series of recommendations for specific managerial reform of the agency. Many of these have already been implemented; the remainder are in the final stages of review as to suitability for implementation.

Resource Management

Although all the efforts I have noted have substantial implications for managing the resources of the Service, there are two items to which I would draw your particular attention. We hope to see legislation that eliminates 1931 and 1911 Act overtime and employs the 1945 Act (modified) provisions applicable to all other government employees.

Second, we have undertaken a thorough review of all fees toward the goal of increasing revenue to the government by employing realistic user fees to all applicable areas of INS activity. Our review will be complete in April and we are targetting an October 1, 1982, implementation date. I note that the Simpson-Mazzoli legislation states the sense of Congress that these steps should be taken.

Finally, we are continuing efforts to assure that resources are concentrated as much as possible at high-volume, high-risk ports of entry. We are considering a variety of options in this area, and we are encouraged that we can effect substantially enhanced efficiencies by readjustments at some points along the Border, and by cooperative efforts in conjunction with our sister agencies, most especially Customs and Agriculture.

Effective Implementation of Legislation

As I indicated earlier, we are pleased that the committee is now considering immigration reform legislation. We look forward to working with you in seeking common ground between your proposal and the Department's proposal. We are developing implementation plans for the various initiatives under discussion. By including implementation planning of new legislation as one of our major FY 82 program goals, we can assure you that we will be prepared to execute new legislation in an efficient professional manner promptly upon enactment.

Inter-Agency Cooperation

Among our inter-agency cooperative efforts has been the recent completion of a crisis management plan. The Department of Justice will assume the lead for the Administration in the execution of that plan, should another Mariel or similar incident occur. The plan is currently under review within the Administration.

We have also given renewed emphasis to joint efforts with the Departments of State, Treasury, and Agriculture. Examples are accelerated planning toward increased facilitation combined with more effective enforcement at ports of entry. We hope to have facilitation measures in place to meet this summer's travel demands.

Hearing Procedures

We are undertaking changes in agency hearing procedures, designed to simplify those procedures, and to assure adequate administrative support. We are particularly concerned that special inquiry operations have adequate performance and administrative support, and that cases are processed in more timely fashion. The similar reforms proposed by the Administration and by Congressman Mazzoli and Senator Simpson are essential in this regard.

In addition, the Department of Justice is transferring the immigration judges from the INS and consolidating them with the Board of Immigration Appeals within the Department of Justice. Congressman Mazzoli and Senator Simpson have proposed a similar structural reform in your bill. We will want to work closely with you to achieve the goals we both seek of fair and expeditious adjudications. Such reforms will enhance the fairness of the appeals process in immigration matters, and will create a more independent, professional immigration judiciary free from the appearance of conflicts of interest.

These, then, Mr. Chairman, represent a sample of the specific efforts underway in relation to the nine priority areas on which I am focusing as I concentrate efforts to improve the management of the Immigration and Naturalization Service activities.

Thank you. I will be pleased to answer any questions you or the other Members of the Committee may have.

* * *

Upcoming ADP Developments (Based on Long Range ADP Plan)

FY 82 - FY 83

1) Development of initial implementation of the following systems/databases:

- Central Index
- Non-Immigrant Information System
- Detention and Deportation Docket
- Fleet Management
- Budget
- Combined INS/STATE Lookout System
- New Statistical Reporting System
- Naturalization and Citizenship Casework Support System

2) Final design for the competitive acquisition of computer processing and communications network capacity which will encompass the total technical requirements of the agency (Equipment Acquisition II).

3) . Acquisition of a Data Base Management System

. Recompetition of the ADIT contract

FY 84 - FY 86

1) Development and initial implementation of the following additional systems/databases:

- Applications in Process
- Applications and Petitions History
- Legal Permanent Residents
- Violators/Smugglers
- Apprehensions
- Schools
- Workload Input/Output
- Procurement
- Property
- Extension of FACS
- A-File Tracking

2) Beginning (in FY 84) of phased-in installation of the ADP and Communications equipment acquired through Equipment Acquisition II, focusing initially on the larger district offices, Border Patrol Sector Headquarters, and Ports of Entry, as well as the regional offices.

3) . Recompetition of the Interim systems.

QUESTIONS SUBMITTED BY SENATOR DeCONCINI

EL CENTRO DETENTION FACILITY

Average Alien Population by Month

What is the average facility population count each month for the past 18 months at the El Centro Detention Center?

What is the greatest number of inmates the facility has housed each month in the past 18 months?

What is the smallest number of inmates at the facility each month over the past 18 months?

The population* at the El Centro Detention Center for the past 18 months is as follows:

Date	Average Monthly Population	Greatest Number by Month	Smallest Number by Month
1980			
October	180	260	97
November	187	241	143
December	174	218	126
1981			
January	237	348	146
February	244	338	206
March	291	355	212
April	326	398	206
May	375	421	254
June	353	378	273
July	344	400	198
August	366	402	250
September	360	419	250
October	405	454	291
November	396	468	313
December	351	408	219
1982			
January	336	372	234
February	404	488	293
March	369	428	258

*This is an actual count taken nightly at midnight.

On-Site Medical Care

What on site medical personnel are available? During what hours are these personnel accessible to the aliens? How many days are the medical personnel at the facility?

There is one registered nurse on-site who is available Monday through Friday from 7:30 a.m. until 4:30 p.m. and on-call at all times. Two additional nurse positions were announced on April 12, 1982.

With the additional two nurses, there will be 120 hours of coverage each week. Negotiation is also underway to obtain the full-time services of a licensed physician on-site.

What kind of care can the on-site personnel provide? What kind of criteria is used to determine whether an alien will be provided outside medical attention?

In the case of an emergency, the nurse is expected to render first-aid to the extent required for the well being of any person pending arrival of a physician or transportation of the person to a medical facility.

The nurse performs treatment of minor health problems such as colds, upset stomachs, headaches, sprains, infections, abrasions, etc. In addition, she administers follow-up care such as medication and treatments authorized by physicians. She also assists physicians during medical examinations.

External means of diagnosis such as blood pressure, temperature, pulse, respiration, and visual observance of a patient may be performed by the nurse. If diagnosis requires methods beyond the above, the patient is taken to a physician for full diagnostic evaluation. The patient is taken to a physician for a full diagnostic evaluation in any case where obvious illness exists and there is doubt as to the kind of illness suffered by the patient. Laboratory analysis, when required, will be performed at a qualified hospital or establishment professionally equipped.

Extensive treatment of serious ailments such as venereal or other contagious diseases, serious internal afflictions or external lacerations requiring sutures are to be performed by a physician.

Surgical treatments of any kind are performed by a physician.

The vaccinations necessary for documentation and transportation are performed as required. Other injections may be performed after a physician has personally examined the patient and so ordered.

The nurse may administer medication if indications are within established limits, and provide emergency treatments under her own initiative. Judgement is required to evaluate a patient's condition, determine the degree of illness and decide whether to administer medication, call a physician or initiate treatment.

Outside Medical Assistance Available to Detainees

Please detail the type of outside medical assistance that has been available during the previous 18 months. If the type and availability of "outside" medical assistance has changed during the past 18 months, please describe the changes made.

The medical facilities available to the detainees include the Brawley Memorial Hospital for emergencies and psychiatric care, and the El Centro Community Hospital for emergency and hospital care. There are eleven physicians in private practice with varying specialities (e.g., general practice, orthopedics, dentistry, ophthamology, urology) available for the health care of the detainees. There have been no changes made in outside care or providers during the past 18 months.

Expenditures for Medical Services Outside Detention Facility

What have been the monthly expenditures for professional medical services outside the center for the past 18 months?

The monthly expenditures for professional medical services outside the detention center are as follow:

Date	Amount
1980	
October	$1,573
November	2,046
December	1,012
1981	
January	3,730
February	2,759
March	20,254
April	16,689
May	3,218
June	3,293
July	1,791
August	880
September	4,119
October	4,637
November	3,069
December	11,662
1982	
January	5,302
February	7,665
March	10,643

Number of Aliens Requiring Outside Medical Care

Over the past 18 month period, how many aliens entering the facility have required outside medical attention? Please break the number down into monthly totals.

The number of aliens who required outside medical attention by month:

Date	Number
1980	
October	13
November	17
December	6
1981	
January	17
February	39
March	30
April	28
May	25
June	10
July	14

August	2
September	11
October	30
November	26
December	29
1982	
January	16
February	20
March	49
Total	382

L

Facility Personnel

How many persons does the facility currently employ?

The El Centro facility currently has a staff of 85. An additional 9 immigration detention officers have been selected to fill existing vacancies and are expected to enter on duty within the next three to five weeks.

Staff to Inmate Ratio

What is the average staff to inmate ratio for each month over the past 18 months?

The inmate to staff ratio for the past 18 months is as follows:

Date	Average Detainee Population	Total Detention Staff	Detainee to Staff Ratio
1980			
October	180	69	2.6:1
November	187	68	2.8:1
December	174	71	2.5:1
1981			
January	237	69	3.4:1
February	244	68	3.6:1
March	291	68	4.3:1
April	326	69	4.7:1
May	375	67	5.6:1
June	353	81	4.4:1
July	344	81	4.3:1
August	366	79	4.6:1
September	360	78	4.6:1
October	405	81	5.0:1
November	396	83	4.8:1
December	351	82	4.3:1
1982			
January	336	83	4.1:1
February	404	82	4.9:1
March	369	84	4.4:1

The normal shift on duty at any given time consists of one supervisory detention officer and, depending upon the shift, either eight or nine detention officers.

What has been the highest staff to inmate ratio at the facility in the past 18 months? For what month?

The highest total staff to detainee ratio, 1 staff to every 2.5 detainees, occurred December 1980.

What has been the lowest staff to inmate ratio at the facility over the past 18 months? For what month?

The lowest total staff to detainee ratio, 1 staff to every 5.6 detainees, occurred May 1981.

Daytime Activities for Detainees

Are the barracks locked during the day? How many hours per day do the inmates spend outdoors?

The barracks are locked after the detainees leave the barracks for breakfast at 6:00 a.m. From after breakfast until nightfall, except in the case of inclement weather when they are put back into the barracks, the detainees remain outdoors. During the winter, the weather is very rarely cold to the degree that is necessary to return the detainees to the barracks.

What shade is available during the summer months in the recreation yard? How many ramadas are there in the recreation yard? What is the total square footage of these covered ramadas? Have these provisions changed over the last 18 months? Will they change soon?

The recreation building (3,000 square feet) and the three ramadas (164 square feet each) provide a total of 3,492 square feet of shade in the recreation yard. Since these buildings have been there for longer than 18 months, there have not been any changes over the past 18 months.

Contracts are presently being prepared by the INS Western Region for the release of bids for two additional structures of either 4,500 or 4,800 square feet each. These structures will be designed in such a manner that they can be enclosed and air conditioned at a later date.

Average 1980-1981 Temperature in El Centro

What is the average high temperature in El Centro during the summer months? What is the average high temperature in El Centro during the winter months?

Average high for summer

	1980	1981
June	104.2	106.9
July	108.8	106.9
August	105.4	107.7
September	101.3	102.1

Average high for winter

December	76.5	74.3
January	71.4	73.3
February	75.6	76.2
March	75.5	77.3

Source: Imperial Valley Annual Weather Summary 1980 & 1981, Imperial Irrigation District.

Clothing

What type of clothing has been provided the inmates during the last 18 months?

- New underwear and shoes purchased locally as needed;
- Outerwear (pants and shirts) from military surplus;
- Jackets and coats for winter wear from military surplus; and
- Clothing suitable for the return of a deportee is purchased as necessary.

What type of facilities have been available for washing clothes during the last 18 months?

Utility sinks are available for washing clothes in each barracks, a total of four double sinks.

Blankets

Are blankets available to the inmates? Can they be taken outside the barracks during the winter?

Blankets are available but cannot be taken out of the barracks.

Incidences of Violence by Detention Personnel

Please discuss the details of any known incidences of excessive supervisor or guard violence.

An immigration detention officer was dismissed in September 1981 for deliberately slapping an alien. An investigation conducted by the Office of Professional Responsibility clearly established that this was premeditated behavior and in violation of the Officer's Handbook M-68. As a result of the finding of the investigation conducted, the officer's employment was terminated. This is the only known incident of excessive abuse or violence.

Isolation of Detainees

What standards are used to determine whether an alien will be placed in one of the isolation cells?

Criteria for confinement of aliens for misconduct include:

- Insubordination toward detention officers;
- Offenses against fellow aliens or conduct tending to disrupt harmony within the processing center;

- Malicious destruction of government property; and
- Serious infractions of the rules of conduct established at the processing center.

What is the average term of confinement in the isolation area?

Records concerning this question are unavailable at this time. They have been subpoenaed by the 9th District Court.

What criteria is used in imposing this sanction? What due process procedures are available to aliens facing a sentence to the isolation cells?

The reporting officer takes the offender before the shift supervisor who listens to the officer's verbal report and to the offender's explanation. If it is determined that the offender shall be placed in segregation for more than 24 hours, a written report is reviewed by a three-member panel consisting of one member from the detention section and two members from the deportation section. The panel may concur with the recommendation made, increase or decrease the time to be spent in segregation.

Over the previous 18 months, what are the monthly highs and lows for the number of aliens in isolation?

Such actual data is not available since all records have been subpoenaed by the 9th District Court. There are usually no more than four or five persons in segregation at any given time.

What is the average length of stay for an alien at the detention center? What is the longest period of detention of an alien in the center's history?

The average length of stay for an alien in FY 1981 was 7.29 days. Since December 1978, the longest known length was 16 months which encompassed the complete appeal route including a petition for review to the 9th Circuit which dismissed the case.

Hearings by Immigration Judges

How many cases per day does an immigration judge hear? Does the judge hear each alien's case individually or are cases joined and considered in groups?

For FY 1981, an immigration judge was at El Centro 174 man days. Twenty-eight exclusion cases, 6,195 deportation cases and 1,509 custody redetermination cases were heard. Both individual and joint cases are heard.

[Whereupon, at 3:31 p.m., the subcommittee reconvened.]

Senator **Simpson**. How about that, Mike, we are actually on time? It will not last long.

So, Mike Harpold, please, president of the National Immigration and Naturalization Council of the American Federation of Government Employees. It is a pleasure to have you here.

STATEMENT OF MICHAEL HARPOLD, PRESIDENT, NATIONAL IMMIGRATION AND NATURALIZATION COUNCIL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. **Harpold**. Well, Mr. Simpson, I think that we have a very extensive statement, which you have for the record, and I think while listening to the testimony previous, that it has been well read, and so I do not think that I am going to go over the whole thing. But I did want to bring certain things to your attention.

First of all, I want to start by thanking you, and as I thank Mr. Mazzoli, for your very firm support in the past year, and I realize the past year with the budget constraints was very difficult. But we, as Immigration employees, were very much heartened by the support that we got from both of these committees, particularly since you might say that we were without parents for the last 3 years. But the support that the Senate and the House has given us as employees has been very much noted.

Senator **Simpson**. Thank you.

Mr. **Harpold**. There are several things here that—and I first would like to say that I think the administration is indicating somewhat of a turnaround in Immigration policy and funding, too. At least they have come back here this year with a vastly increased money request for the INS, and we hope that this will result in turn in succeeding years, in the full awareness of the entire INS problem, and not just the ones in the Cuban/Haitian issue.

We are also pleased that the administration has appointed new leadership to the INS. While we respected the efforts of those in an active capacity, the absence of a permanent appointed Commissioner contributed to a sense of drift in the Agency, and seriously undermined morale. We are impressed with Commissioner Nelson's abilities, and we are trying to work with him.

It is our hope that a feeling of mutual confidence will develop between the Commissioner and this union, which will enable us all to get on with the rebuilding of the Agency.

I might say that I have had several meetings with Mr. Nelson, all on the union dime, I might say, and we are looking forward to working with him.

Senator **Simpson**. Good.

Mr. **Harpold**. Now, our concerns with the budget this year are threefold, and I might say we have come forward this year in a sense of trying to convince the administration, work with the administration and you, as to the better funding of the Agency.

First, we would like to point out that the large dollar increases do not translate to increased program effectiveness in traditional INS areas.

Our second concern is that there continues to be an administration mind set against personnel increases. And, finally, I would point out that many of the deficiencies implemented in the absence of personnel increases to cope with the growing INS workload are frequently short-sighted, counter-productive, destructive of morale, and severely reduce professionalism.

Now, we are not against innovation, per se, and there are a lot of innovations that we support. One of them in particular is the visa waiver concept, and I think some people find that kind of startling.

But other innovations are simply reflective of a reluctance on the part of the administration to staff, and we get into some very ersatz, sometimes weird types of proposals as a substitute for people, and I would submit that in the field of immigration, where you have a mass of people problems, in other words, this agency of Government dealing with millions of people throughout the world, it seems kind of strange to me that the administration consistently overlooks the obvious, and that is best able to deal with these people, and I would submit that it is people themselves, and I think that in listening to previous testimony, there is a real reluctance to come forward and say that yes, we do need more people to look after this problem.

I have prepared several charts. The first chart is on page 3 of my testimony, and it indicates the relationship between the positions authorized in fiscal years 1981, 1982, and 1983, and the actual on board positions as of March 1982.

And in every category, there are fewer people actually aboard in March 1982 than were authorized in fiscal year 1981. And some of them are very reflective of our inability to do the job.

Adjudications, for example. Inspections are of very great concern, as you pointed out. Investigations, continually decreasing. We have not hired any new investigators in over 3 years. We have not hired any new adjudicators in over 3 years, and we have not hired any inspectors in over 3 years.

It is indicated here that in at least three of these areas, the inspections program, and in the investigations program, and the status verification program, we are actually going to lose additional people in this fiscal year.

Now, the inspections program, they have 17 percent increase in our activities this past year, and staffing has decreased by 13 percent.

I point out that the Customs Service is going to go through, in their own budget process, a proposed reduction in their staffing.

Now, as you may know, the Immigration Service and the Customs Service share responsibilities through the one stop inspection program at 24 major airports, and also at every land-water port, and this commensurate reduction in the staffing, in the Customs Service, is going to severely affect the ability of the Immigration Service to keep open many smaller ports of entry, and provide the needed services at many major airports.

Now, I was not really prepared to get into a large discussion on the 1931 Overtime Act. But I think that I have several feelings on that.

First, we have been continually pilloried on this overtime issue for years, and I would submit that the abolition of the 1931 Overtime Act is one of these management innovations which is designed to get around the hiring of people. And as an employee, and maybe even as a citizen, I would have to suggest that if the administration is really concerned about reducing overtime, why do they not hire the people necessary to do the job. That is what we are all asking.

Now, it is kind of—we have the 20,000 overtime cap, which has helped to keep down the garish examples of people making gross amounts of money, but that has resulted in requiring people to work overtime. In the past, it was more or less voluntary. You could get out and work as much as was needed to be.

Now, we must work overtime, and it has resulted in severe changes in life style for many of the people who are involved, who work for the INS. I have a very close colleague who quit this spring because he simply could not stand to face 93 days without a day off, again this summer. Many of our people are forced now to work long overtime hours, whereas in the areas in the past they were not.

I think that we would feel that the administration were in a better position, if the administration would first come forward and ask for the people to do the job, and then if they want to take a look at the overtime, fine, but if we are required to work 3 and 4 months in a row without a single break, to endure split days off, to working every night and working every day, I think we feel a little bit disappointed that the administration first wants to cut our compensation, without a single proposal as far as reducing our workload.

And regarding the position of part-time inspectors, as you know, we share responsibilities with Customs Service. Our full time inspectors now are required to assume a double burden. We are language trained, language qualified. We go through 4 months of school. We are experienced journeymen officers. Yet on these inspection points we are generally required to do all of the cases that require foreign language capability. All of the cases that involve difficult immigration questions, and when we use part time employees we are using people who have no training whatever, or they are given basically a 1 week orientation, they are thrown into the gap, and the journeyman officer then becomes responsible for the activities of one or two customs officers that are supposed to be working beside him, and several part time inspectors, who just cannot perform the full range of functions, and it has caused a severe problem, and we would say that the optimum solution is simply proper staffing of airports of entry.

Related, in example, in my testimony at Laredo, Tex., where two employees quit, and four others were transferred over to the border patrol to act as radio operators, because the INS felt that they were overstaffed at Laredo. The INS turned around and hired State liquor control board officers to moonlight as immigration inspectors, as part-time immigration inspectors, in place of these full time, qualified, and trained people that were shipped over to the Border Patrol to act as radio operators.

I would submit that this is another example of their preoccupation with innovative, instead of hiring. I think the chairman made a good point on the investigation program.

In 1981 they were authorized 796 positions, this year they proposed to fund only 596, a reduction of 200. That does not account for the fact that there are 666 actual people on board in the investigations program, which means that we are funding 70 positions less than the actual on board strength in the investigations program today.

We feel, first, that at a time of high unemployment, job competition is an issue, and today more than ever, people who are out of work are aware of the competition with the illegal alien.

Second, virtually every design for reform of our immigration laws and policies calls for more effective enforcement in the workplace.

And finally, innovative admission and adjudication procedures have jettisoned traditional safeguards, and at a time when we should be increasing our efforts to uncover fraud, we are in fact severely curtailing such efforts.

I would like to talk about the detention program for just a few minutes, and this is something that was brought home very hard to the union in this past year. At Fort Chaffee and Krome and El Paso, we had a total of eight INS employees who were indicted for brutalizing, or conspiracy to brutalize Cuban refugees.

Now, through the efforts of this union we picked up our union officers, our AFGE staff attorneys, and through $54,000 of paid legal talent, which we paid for on the outside, we were able to clear every single INS employee who was indicted, and there were over 41 counts in those indictments, of brutality and corruption. And we got them off the hook.

Now, I think the problem here is that there was in fact a problem at Fort Chaffee. There was a problem at Krome, and there was a problem at El Paso. But the INS and others tended to say well, if there is a problem, it is a problem with the employees who are dealing with the Cubans, and that led to the Justice Department seeking these indictments.

Well, the juries that these were tried before simply did not buy that. I think it was a little bit of scapegoating. They were looking around, they knew something was wrong, and they immediately turned to the employees as the answer. The problem was not the employees, but the problem was the lack of the system to deal with the Cuban entrants.

Now, for example, at Fort Chaffee, Ark., where they had to set up this detention center, and we had all those Cubans rioting, and the INS was charged with administering a discipline center for the riotous Cuban prisoners.

The officer who was placed in charge of that center was a GS-11, from Chicago, Ill., on detail. Now a GS-11 is not even considered to be in the lowest echelons of management in Government. A GS-11 makes about $20,000, $22,000 a year, and if he is a supervisor, he supervises no more than four other employees. That person went in there and tried to do the best he could, but he was simply not qualified to perform that type of function.

Now, the same situation exists at Krome. During the entire setup period at Krome, during the entire construction period of that facility down there, the INS officer in charge of that entire facility at Krome, and this went right up through July of this last year, was a GS-11 investigator, a journeyman investigator, who was detailed over to oversee that entire operation.

Now, that is the type of responsibility that is probably worthy of someone making two or three times, and maybe two and three times the experience that that individual had, in the Government.

The problem is this, that the INS, in its detention program, is set up for short-term detention, and removal of aliens, and long-term detention is an experience that is novel to us, and the INS has simply not developed the philosophy or the abilities or the skills or the structure to deal with long-term detention.

Now, it was clear that the decision has been made to go into long-term detention, and I would urge that the committee, through its oversight, you know, very carefully monitor this process, until such time as the INS does achieve the capability of administering these programs. I think it is to our credit, and the credit of the employees that it is being done, but it should be done by personnel who are trained, and staffed, and paid and supervised equally with the Bureau of Prisons, which is into long-term detention, and I think that is a very reasonable request on our part.

ADJUDICATIONS

Adjudications, again, the backlogs have significantly increased. The personnel to deal with the program have gone down. We have made just about every innovation that can be made as far as dealing with the problem, and I have included a chart here that shows the reduction in the percentage of denials, which means that we are approving more cases faster with less screening than we ever did in the past.

But yet, despite the fact that in a place like Los Angeles, where the percentage of denials has decreased 42 percent, the pending has increased 48 percent.

I would like to quote just a little bit out of a management report from last fall concerning the Los Angeles office, which I think is indicative of the problem. It says that the Los Angeles office had a decrease in receipts, an increase in completions, a decrease of productive hours, and a big increase in pending adjudications. The primary reasons for the increase in pending figures are the loss of CETA clerks in March 1981, the lack of authorized clerical personnel, the inability to fill vacancies due to the hiring freeze, and the forced necessity of staffing the Los Angeles Airport for inspection purposes with examiners from the district office.

Now, in a nutshell——

Senator SIMPSON. Mike, I am going to have to interrupt—it has been almost 20 minutes now. I have some questions. If you could summarize for me in just very swift fashion, I would appreciate it.

I hate to be rude, but I do have another appointment, soon after 4 o'clock, so if you could kind of wind it down. As I say, your prepared statement is in the record, and that would be helpful.

Mr. HARPOLD. Certainly.

Well, as I started out, the bottom line of our whole picture there is we would like to see the administration try the one solution that is has never tried, and that is a simple addition of people to the INS. I think the INS employees have done a terrific job in carrying the ball for the last 3 or 4 years, and I think it is simply—we have done a good job, that it should be reinforced by more of us.

Senator **Simpson**. Just briefly, for the record, even though it may be repetitive, would you explain briefly the overtime provisions of the 1931 act?

Mr. **Harpold**. It provides for double time on Sunday, and holidays, and during the week after an 8-hour day, and after 5 p.m., and before 8 p.m., it provides for a half day's pay, in other words, 4 hours of pay, for work up to 3 hours, and for a full day's pay, or 8 hours pay, for work up to 5 hours, and then formula thereafter.

Now, it includes within it, 2 hours of preparation and travel time to get to your place of inspection and get back.

Now, there have been some garish tales about huge overtime earnings for little overtime worked, but on Sundays and holidays we are required to put in a full 8 hours, and even though the inspection of a flight might take an hour or less, we are required to remain at our duty post and complete adjudications during the remainder of the 7 hour shift. So the Government does get a full 8 hour shift on Sundays and holidays.

Senator **Simpson**. And the difference between that and what would happen if the 1931 act were repealed, is essentially what?

Mr. **Harpold**. We would lose the report time, the call out time. For example, if I worked an 8 hour day, and then had to go back to Oakland to inspect a ship at night, say at 10 o'clock at night, and it took me 2 hours to do it, I would get 2 hours pay.

Well, this is an every-night occurrence. I might do it for a few nights, but I sure would be tired for about a day or two after. But now we get travel time. We get maybe 4 hours pay for doing that call out, you might say, going down and inspecting it.

Now, on Sundays and holidays we would get what is called the 1945 act. Now that is figured on time and a half, but the problem there is that it is capped at the first step of the GS-10, and a lot of our people who are examiners and deportation officers, and others, who are thrown into the gap to do overtime, would wind up making straight time, or sometimes less than straight time.

Now, I might say, I had laid all of this out in a document that I prepared for the Department of Justice, and submitted to David Hiller in June 1981. All our concerns, and I even proposed some alternatives, and I have never received a response from the administration, in any way, shape or form to that document.

Senator **Simpson**. You mentioned long backlogs and the potential for fraud in the existing adjudication system. What has been the reaction of INS personnel to the proposed efficiencies, such as the up-front adjudications, whereby the applicant avoids the long waits and documents are less likely to be lost? What about that?

Mr. **Harpold**. The thing that we see in the up-front adjudications program are two things.

First of all, there is a very severe problem with people who walk in without help, or without counsel, or without a voluntary agency, but simply proposes to do it cold. They either write into our office, or call in, or come in and they get a list of documents that they are supposed to have, but it is very rare, and almost by accident, that the individual applicant will have everything ready on that day so that he can in fact do it in a single day's visit to our office.

This means that—and the attitude of the INS is that we will not adjudicate it unless everything is ready, so the individual comes up to the window two or three times, and he is forced to go back, because everything is not quite shipshape, and it causes a good deal of resentment on the individual.

Now, the people who like it, are people who—the attorneys and the people who are represented by voluntary agencies, because they have the skill to prepare all of the documents in advance, and having prepared all of the documents in advance, they can walk in with their clients, and get this done in a very quick and easy manner, and I can see that that is a vast improvement, and maybe we ought to save that procedure for the people who are represented, and go back to the old way, for the people who are not. Because it causes—and I would say that 90 percent of the complaints that we are getting about discourtesy and rudeness over the up-front adjudication thing is as a result of people who have come up to that window, and it is expected that everything is going to be ready and it is not.

Now, that is very difficult, for someone to walk in and do that.

Senator SIMPSON. When you talk about the 1931 act, and going perhaps to the 1945 Overtime Act, of course, relating to Civil Service, is it your position that you want the same treatment of INS personnel and customs personnel?

Mr. HARPOLD. I think we would have open revolt, in a way, because you have, for example, now I have been down to Atlanta, I went down to something like 30 district offices, and I visited all of the facilities, and when you have got the customs officer now and immigration officer, both doing the same function, I sort of noticed that all of the people who speak a foreign language are kind of shifted over to the immigration line, and everyone who wants something more than a simple B-2 admission, they all end up in the immigration line, and the immigration officer ends up doing a majority of the work.

Besides that, the immigration officer has to stay there and do adjudications, while his counterpart does not.

Now, the 1911 act is more lucrative than the 1931 act. It causes a little bit of friction there. But if you, or if the administration proposes to pay customs at a much better rate than the immigration officer, yet the immigration officer, in his one step process, is forced to shoulder the burden of the responsibilities, is going to create a severe impact, adverse impact on the morale of the INS workforce.

Senator SIMPSON. And apparently customs is covered under that 1911 act?

Mr. HARPOLD. That is correct, sir.

Senator SIMPSON. But you are not?

Mr. HARPOLD. We are not.

Senator SIMPSON. And you are covered under the 1931 act, but they are not?

Mr. HARPOLD. Right. The 1931 act is—the 1911 act is more lucrative than the 1931 act.

Senator SIMPSON. With the asylum adjudications backlog now at about 106,000, what recommendations would you make to efficiently and fairly decrease the pending cases during the coming year?

Mr. **Harpold.** I think that the only thing that can ever make immigration paperwork feasible, are computers, and you know we are at least 10 or 15 years behind. Absent that, the only solution is the infusion of personnel.

Senator **Simpson.** We saw that one of the major reasons that the INS enforcement effort resulted in fewer apprehensions and fewer investigations during 1980 and 1981 was because many officers were detailed from their duties to handle the Cuban/Haitian crisis.

I would be interested in your brief opinion on how the manpower of the INS could be mobilized in a crisis, without hindering normal enforcement.

Mr. **Harpold.** That is always a problem. I think it is always going to have to be endured to an extent. But at the same time, during the Cuban/Haitian thing, while we were detailing our detention people and our Border Patrol people and investigations people to deal with it, the detention program had 180 vacancies.

In other words, these were vacant detention officer positions that the administration had never filled, and I would submit—well, I think the figure came out they had 200 Border Patrol agents detailed in Florida at one time. It could have been 20 Border Patrol agents, if the administration had simply filled 180 vacant positions in the detention program.

Senator **Simpson.** I thank you very much, Mr. Harpold. You are very alert to the needs of the people that you represent, and you have always furnished us, or attempted to furnish us with whatever information we have required, and that has been helpful.

[The prepared statement of Mr. Harpold follows:]

PREPARED STATEMENT OF MICHAEL G. HARPOLD

Mr. Chairman and members of the committee, we are pleased to appear today as the representative of Immigration and Naturalization Service employees and testify regarding the Administration's FY'83 budget request. Much has happened since our appearance before this committee last year. At that time the Administration had proposed a 17% reduction in funding and staffing. Hundreds of I&NS employees were faced with the loss of their jobs and many hundreds of others in our inspections and investigations occupations were faced with severe reductions in benefits with no comensurate reduction in hours spent on the job. The proposed cuts came in the face of ever increasing demands on the I&NS workforce. This committee had the foresight and the courage to reject the Administration's request as ruinous to a vital government program. In behalf of I&NS employees I wish to thank the committee and you, Mr. Chairman, for your support and leadership.

The Administration has returned here this year with a vastly expanded budget request for FY'83, an act which must give the committee a sense of vindication. It would certainly indicate that the Administration is at last undertaking to address the serious problems confronting this nation in terms of immigration enforcement. While much of the proposed increases deal with the Cuban/Haitian problem, we are hopeful that the high level attention accorded that area will result in full awareness of the total immigration problem and the true needs of the I&NS.

We are also pleased that the Administration has appointed new leadership to the I&NS. While we respected the efforts of those in an acting capacity, the absence of a permanent appointed commissioner contributed to a sense of drift within the agency and seriously undermined morale. We are impressed with Commissioner Nelson's abilities and we are trying to work with him. It is our hope that a feeling of mutual confidence will develop between the commissioner and this Union which will enable us all to get on with the rebuilding of the Agency.

BEST COPY AVAILABLE

THE FY'83 BUDGET REQUEST

While the Administration request of $524,599,000 is substantially greater than past years, we do have several major concerns. First, the large dollar increases do not translate to increased program effectiveness in traditional I&NS areas. Second, there continues to be an administration mind-set against personnel increases. Third, efficiencies implemented in the absence of personnel increases to cope with a growing I&NS workload are frequently short-sighted, counterproductive, destructive of morale and severely reduce professionalism. Most frequently, such plans are implemented with little input or concern for the views of field personnel.

The following two charts, the first a re-cap of positions authorized, funded and actually filled and the second, a re-cap of overtime useage, are indicative of the Administration's attitude toward I&NS staffing.

	Positions Authorized			Positions Funded	Actual On-
Activity	FY'81	FY'82	FY'83	FY'83	Board 3/82
Inspections	1,557	1,357	1,357	1,712*	1,381
Border Patrol	2,872	2,890	2,890	2,834	2,466
Investigations	796	796	796	596	666
Detention	518	639	639	688	459
Adjudications	902	762	762	795	724
Status Verif.	256	256	256	197	208
Information	324	324	324	333	308
Records	921	873	873	934	762

The chart shows that there are substantially fewer employess on duty in every category than were authorized in FY'81. The chart also indicates further intended personnel cuts in FY'83 in that fewer positions are funded in the Inspections, Investigations and Status Verification programs than there are people actually on board in those categories.

BEST COPY AVAILABLE

			Shortfall	
Overtime	**FY'81 Actual**	**FY'83 Estimate**	**WY**	**Dollars**
Administratively Uncontrollable	712 WY	532 WY	198 WY	$ 5.6 M
'31 Act for Inspections	559 WY	273 WY	289 WY	$ 6.2 M

*The proposed budget funds the equivalent of 1,712 positions but authorizes only 1,357 permanent full time employees. The difference is intended to fund part time employment.

INSPECTIONS PROGRAM

During the past year the inspections workload at U.S. Ports-of-Entry increased 17% yet I&NS staffing decreased 13%. The Customs Service, with whom the I&NS shares One Stop Inspection responsibilities at 24 major airports and all land border ports, is proposing an 1,804 position reduction in it's FY'83 request. The FY'83 budget for the I&NS calls for 1,357 permanent full time inspections positions, 200 fewer than in FY'81. Inspectional overtime is reduced from 559 workyears to 273 workyears. As a substitute, the Administration is proposing to fund 150 additional workyears for part-time employment.

In 1980 for the first time in our history the number of foreign visitors entering the United States by air exceeded the total number of returning citizens and resident aliens. It is also becoming increasingly apparent that the population of illegal aliens is comprised in its major portion of individuals who came through our ports of entry rather than across our land borders. These individuals gain admission by such means as falsely claiming U.S. citizenship and using fraudulently obtained or couterfeit visas and immigration documents. Many others are admitted as non-immigrant visitors and simply remain. In the face of a steadily increasing workload and an increasing practice of illegal entry through a port of entry, the Administration response has been to reduce staffing, utilize untrained part-time employees and implement innovations such as One Stop Inspection which serve only a cosmetic efficiency goal.

BEST COPY AVAILABLE

The increase of funded workyears in the FY'83 budget over authorized positions is to conceal a practice of hiring part-time employees instead of filling permanent positions. Part-time Inspectors are hired at an entry, GS-5 level, receive no formal training and may be paid their base hourly rate in circumstances where permanent employees must be paid overtime. Management only enjoys a financial advantage through the employment of part-time inspectors. The program has engendered a great deal of bitterness and conflict between the two groups of employees each doing the same duties but the one receiving dramatically less compensation and no career advantages. In some instances, part-time employees are utilized at full government expense in place of inspectors whose overtime earnings would be reimbursed by air carriers. Trained full time inspectors with language skills are stretched still thinner and the I&NS denies itself the added capacity of utilizing inspectors to do adjudications on their down time because part-timers remain untrained. The program is a false economy and adds nothing to the effectiveness of the I&NS mission. We strongly urge that the committee adopt authorization language requiring the I&NS to utilize permanent, trained, full-time employees as inspectors and restore a minimum 200 positions to the authorized workforce.

The preoccupation with reducing personnel at all costs has led to situations such as occurred at the Laredo, Texas port-of-entry. In the face of a threatened reduction in force, two trained, long term employees found other jobs while four others were transferred to the local Border Patrol office to become radio operators. They were replaced by State Alcohol Control Board officers who were hired at the same location to moonlight as immigration employees. We would also urge the committee to study carefully such other management innovations as waiving the inspection of crews of arriving foreign vessels. It is proposed that the ship's agent simply deliver a manifest and the crew's passports or documents to the nearest immigration office.

Another proposal would close many smaller land border ports. Still others would remain open for traffic but be unstaffed. Local residents would be inspected once each year and be issued a "border crossing permit". The sense of issuing a document which would then be of no conceivable use escapes me, but then the framers of such proposals blithely ignore the fact that Canada now has more than one million people unemployed, a rate that exceeds that of the United States. Such proposals are simply unnecessary and constitute an unwarranted risk of significantly increasing the opportunities for illicit entry while at the same time reducing services.

The I&NS has also gone to great lengths to reduce the use of '31 Act inspectional overtime. Two years ago the Congress adopted appropriations language limiting overtime earnings of an individual employee to $20,000 per annum. A caveat permitted the Commissioner to make an exemption when he found the restriction impossible to implement. The Administration this year proposes to eliminate this safety valve.

The $20,000 restriction has not served to force the administration to hire more inspectors as should be its logical outcome. Instead, it has been used meanly against the employees who are forced to work overtime. Further, I&NS management has refused to use its authority to grant an exemption even in instances where it was clearly mandated to do so. Witness the transfer of an employee from Calgary, Canada at government expense to Chicago, Illinois because he was about to exceed his overtime cap.

Our National Contract with the I&NS requires that overtime be distributed fairly and equitably among all those eligible to participate. The basis for distribution was time worked and most locations had locally negotiated distribution systems which permitted voluntary participation. Management unilaterally and with complete disregard of all existing agreements changed the distribution system to base it on money earned, cancelled all exemptions and required that everyone work overtime regardless of their desires or personal

BEST COPY AVAILABLE

situation. This means that lower graded employees must now work as much as twice the number of overtime hours as their higher grade co-workers. Working mothers, single persons and others who for health, education or other reasons may desire to work less are now forced to work far in excess of their wishes. Recently, an immigration officer in San Francisco with ten years experience quit because he could not stand to face "...another summer of working ninety-three straight days without a day off."

We do not believe that you intended the result that has occurred since the overtime cap was enacted. Over 75% of all those employees who had previously earned over $20,000 were management and supervisory personnel. The expressed position of this Union has always been that overtime should not extend the basic workweek by more than 25% to 33 1/3%, a level far less than would permit $20,000 earnings. Yet every single inspector has been adversely affected by the application or mis-application of this rule. We realize that you cannot make management hire enough inspectors even though that is the optimum solution. We do urge that the caveat permitting the commissioner to make an exemption not be eliminated but instead be re-worded to mandate him to do so. Further, we request that you add wording that will protect our labor relations agreements regarding the use and distribution of overtime.

INVESTIGATIONS

The FY'83 Budget Request contains the following wording appropriate to the consideration of the Investigations Program:

> "The request provides for the continuation of seven INS' activities without any program changes."
> "The mission of the INS is...to prevent...granting of benefits to those not legally entitled to them...apprehend and remove those aliens who enter illegally or who violate their lawful status and/or whose stay is not in the public interest; and to enforce sanctions against those who act or conspire to subvert the requirements for selective and controlled entry."
> "The major thrusts contained in the request include the following:
> *The INS Mission Plan...provides the framework for this request...it has selected an overall strategy of concentrating and focusing efforts on those sites and groups of aliens that represent a substantial immigration problem for the country...

BEST COPY AVAILABLE

> *1982 Budget Amendment. The Administration has added additional resources in the 1982 budget to implement the President's new immigration policy...The additional resources were added to improve enforcement capabilities of the Service..."

While the Administration makes a strong public statement in support of immigration enforcement efforts the record shows that the investigations program will again be subjected to a reduction in FY'83. Even though the budget authorizes 796 positions, the Administration has requested funding for only 596 positions or a reduction of 200. There are at present 666 full time employees assigned to the Investigations program. In addition, insufficient funds are requested to continue the current level funding of administratively uncontrollable overtime (AUO).

A reduction in the Investigations Program is clearly contrary to the Administration's stated goal of increased immigration enforcement in the workplace. The proposed reduction is shortsighted for several reasons. One, we are in a time of high unemployment and job competition is an issue that is very real with the unemployed. Today, perhaps more so than in the past, American workers are aware that they do compete with the unchecked flow of illegal alien labor into their job market. Second, virtually every design for reform of our immigration laws and policies calls for more effective enforcement in the workplace. It makes no sense to continue to dismantle the very apparatus which will be called upon to perform such a task. Third, innovative admission and adjudications procedures have jettisoned traditional safeguards and at a time when we should be increasing our efforts to uncover fraud, we are in fact severely curtailing such efforts. The program contemplates completion of only 21,800 investigative cases in 1983 as compared to 71,221 in 1980. Our experience with fraud in the past has taught us that one individual securing a benefit by fraud can and does create a tree of additional beneficiaries who can number as many as a hundred. Few seem to remember the costs in manpower alone of the Chinese Confessions Program.

BEST COPY AVAILABLE

A reduction of AUO is also very shortsighted. AUO compensates for overtime at a rate less than the hourly rate of the average officer. Yet, because it is there and it permits the individual the flexibility of recognizing and responding to the need for his services beyond his normal tour of duty, it engenders far more voluntary effort than it can ever compensate. It is in fact an incentive and its success depends in great measure upon the morale of the individual officer. It does not pay for management to be penurious when administrating this program. A 5% reduction across the board can have as deleterious a result as total elimination.

Apart from the funding concerns for the Investigations Program, the committee may wish to address the following issues through language in the authorization bill:

- Amend the Social Security Act to permit access to social security files by I&NS investigators.

- Give I&NS officers authority to review an employers records relating to illegal aliens without the need to secure a warrant or subpoena.

- Amend the I&N Act to permit Immigration officers to search a worksite for the presence of illegal aliens.

- Increase the amount of money available to pay informants. With the level of activity generated by the anti-smuggling program, $50,000 is not enough.

- Raise from $10,000 to $15,000 the value at which seized vehicles can be disposed of administratively.

- Permit the payment of travel expenses to bring an alien back to the United States as a witness in an immigration or criminal proceeding.

DETENTION PROGRAM

During the past year, this Union was called upon to represent numerous I&NS employees who were the target of criminal investigations and Grand Jury proceedings surrounding the detention of Cuban prisoners. The investigations arose from allegations of misconduct during riot-like conditions at holding camps at Fort Chaffee, El Paso and elsewhere. Eight I&NS employees were the subjects of criminal indictments. All were subsequently acquited on every count and won restoration to duty with full back pay.

BEST COPY AVAILABLE

Besides the uncounted hours of our Union officers time and the time and travel of AFGE staff attorneys, the Union spent over $54,000 in dues money for the hire of private attorneys to defend our members in the criminal actions.

Apart from our concern over the misplaced zeal of the I&NS Office of Professional Responsibility and Justice Department attorneys who pursued these cases through several Grand Juries and retrials, the Union has clearly bought the right to comment on the structure and the system of operations which gave rise to these situations. In a word, the I&NS neither has the structure, personnel nor expertise to engage in long term detention projects.

The Cuban expulsion and the Haitian problem have thrust the U.S. into the role of being a country of mass first asylum. El Salvador and other hemispheric trouble spots are giving sufficient indication that this unaccustomed role is to be with us for a long time. Clearly, decisions have been made that thrust the I&NS into the field of long term detention. Yet, the I&NS remains an agency whose mission, philosophy, structure and training are geared solely to the transportation of aliens in custody and short term detention situations pending removal. The term "Service Processing Center" was coined at the behest of a community concerned by the image of members of that community being housed in a "Detention Facility". How ironic that the term now serves to mask the fact that these facilities that now house aliens for months on end are no more than detention camps and were never intended to be more.

The I&NS role in the Cuban/Haitian detention programs has been accomplished, admirably by the officers so assigned, by repeatedly detailing officers from other assignments to short details at the various detention centers. None of the officers had skills or training in preparation for the situations confronting them. The officer in charge of the I&NS operation at Fort Chaffee, Arkansas during the period of time encompassing the incidents

BEST COPY AVAILABLE

complained of in the five indictments that subsequently arose, was a GS-11 Supervisor from Chicago. The officer in charge of the Krome facility all through its planning, construction and occupation was a GS-11 Investigator on a temporary detail. Both of these officers and others in similar positions have had to assume responsibilities far beyond their grade levels and experience. The I&NS must develop a philosophy for its long term programs and then identify and train the officers who are going to run this type of program.

All of the officers who have been assigned to these programs have been on temporary detail from their normal duty stations. Some have been detailed so frequently, being rotated back to places like Fort Chaffee or Krome so many times during the course of a year, that families have broken up and other officers have sought sick slips from sympathetic doctors. Other officers have simply defied their supervisors and flown home. The travel and per diem costs of keeping officers on temporary detail are huge; yet, the anti-personnel bias of the Administration has been so great that 180 vacant detention officer positions exist.

The I&NS has recently resorted to another stratagem to staff its long term detention centers; contract guard services. The practice raises novel legal questions concerning the role or authority of contract guards over individuals in federal detention. Yet, the FY'82 Amendment contained $1.5 million for contract guard services at Krome, $1.9 million for contract guards at Fort Allen, Puerto Rico to provide order within the compound and staff two special security areas, and $2.6 million for a special reaction force of contract guards to put down riots and disturbances. We already have reports of illicit activity involving contract guards and detained aliens, and the system holds little promise for a future free of abuse or scandal or corruption. The answer lies neither with the use of officers on short term details nor the use of contract guards. The program calls for permanently assigned

BEST COPY AVAILABLE

full time employees, adequately trained and graded at a level commensurate with their abilities who would be fully accountable to and subject to the discipline of the I&NS.

ADJUDICATIONS

The Administration proposes no significant changes in either the Adjudications or the Naturalization programs. The Status Verification activity which serves as the investigative back-up to these two programs calls for funding for only 194 positions. The request authorizes 256 positions and 208 permanent full time employees are actually on board.

The pending backlog figure increased again during the past year:

End of Year Pending	1980	1981
Adjudications	246,395	314,536
N-400	112,824	147,957
N-600	29,479	39,256

The I&NS is falling still further behind in these programs despite the implementation of procedures which have made the adjudication program a literal rubber stamp operation. Interviews and record checks have been waived in most cases, and, where still required, the interview has been reduced to little more than witnessing the signature on the application. Caseloads for officers interviewing Section 245 adjustment of status applicants range as high as 40 a day, while naturalization caseloads range between 16-20 a day. Most naturalization examinations are now done by Contract Representatives at the GS-5, 6 and 7 level, and in Miami, visa petitions and adjustment of status applications are adjudicated by GS-5 applications clerks. No formal training has been afforded to any of these classes of employees to enable them to properly perform these functions.

BEST COPY AVAILABLE

One result of expediting adjudications by untrained personnel has been a severe reduction in the percentage of cases denied. The following are the statistics for the Western Region of the I&NS. Also shown are the increases in pending backlogs for each office. The figures indicate the percentage change from FY'80 to FY'81.

Office	Denials	Pending
Los Angeles	-42%	+48%
San Francisco	-20%	-18%
Sacramento	-30%	- 3%
Fresno	-83%	+19%
Las Vegas	-33%	+31%
Reno	-23%	+50%
San Diego	-15%	+47%
Phoenix	-47%	+32%
Tucson	-67%	+34%
Honolulu	-53%	+55%

The narrative reports for the San Francisco, Los Angeles and San Diego offices are illustrative of the dilemma:

> "The San Francisco and San Diego offices both experienced increases in receipts and completions. We believe that increased production in the San Francisco office is mainly due to more efficient use of personnel both officer and clerical. Increased production in the San Diego office is mainly due to "instant action" or "up-front" adjudication of applications and petitions. This procedure was placed into operation during the year and has proven to be highly efficient and well received at the San Diego office.
>
> The Los Angeles office had a decrease in receipts (7,594); an increase in completions (6,117); a decrease of productive hours (10,995); and a big increase in pending adjudications (26,086) in FY-81 over FY-80. The primary reasons for the increase in pending figures are the loss of CETA clerks in March 1981, the lack of authorized clerical personnel, the inability to fill vacancies due to the hiring freeze, and the forced necessity of staffing the Los Angeles airport for inspectional purposes with examiners from the District office. The lack of clerical personnel, in effect, causes the officers to perform clerical functions, thus a reduction in productive hours for adjudications. We project that by January 1, 1982 the pending figure will increase to approximately 75,000. We base this projection upon officer retirements prior to January 1, 1982 and additional examiners to be sent to the airport for inspectional duties at the "Bubble".

Despite the high marks that the author gave the San Diego office for "up-front" adjudications, the office still registered a 47% increase in its back-log of pending cases.

Every innovation in the adjudications program has been tried except one: the simple addition of trained people. The I&NS needs more adjudicators. Yet, the number of trained adjudicators has steadily decreased. Like a toothache, the longer one waits, the more it hurts.

CONCLUSION

In the past six months the I&NS has lost 41 Inspectors, 35 Investigators and 24 Adjudicators, all trained, experienced employees. They and many others who proceeded them have not been replaced. Last year, we asked for four items: funding so that our workforce would remain intact; leadership; policy; and for the Administration to start addressing the problems endured by the I&NS workforce. Thanks to this Committee our funding has turned around. We have been given leadership. The direction of immigration law reforms is now sufficiently clear to permit the I&NS to pursue cogent policies. Now is the time to pay particular concern to the morale issues less the drain of qualified personnel away from the I&NS continues.

No other agency of any government in the world performs such a massive "people" task as does the I&NS. A force of 2,366 Border Patrol Agents and 666 Investigators arrest a million people each year. A force of 1,381 Inspectors screen out and deny admission at ports of entry to 800,000 people out of a traveling public exceeding 349 million entries each year. A few more than 1,000 naturalization and immigration examiners handle several million applications each year. Each of these actions, which may seem small because of the numbers involved, amount to an enormously significant act to the individual whose life is touched. That the job is done well, that people are treated humanly and that there is so little error is attributable in large measure to the quality, dedication and training of the I&NS workforce. It should

BEST COPY AVAILABLE

go without saying that concern for the morale of I&NS employees should be a very high priority but in time of fiscal austerity and work-load crunch even training can be deemed a frill.

We feel that it is time now to start dealing with the issues which affect the quality, morale and dedication of I&NS employees. That has to start by achieving a much better ratio of work to worker than does or has existed for many years. As a first step, the Administration must abandon its blind and unreasoning stance against increasing the numbers of I&NS employees. The hiring of part time employees and contracting out of sensitive jobs are but the crassest of ruses to avoid a self-imposed personnel ceiling. Part time and contract personnel do not equate to the trained, dedicated professional employees who have kept the Statue of Liberty's image free of tarnish. We ask the Committee to adopt language in the authorization bill which would prevent the filling of full time positions with untrained, part time personnel or with contract personnel.

We further ask the Committee to carefully review the methods by which the I&NS is performing its basic mission. Measures are being adopted which, though they may look good to an efficiency expert concerned about a short term goal, are in the overall demeaning to the law and erode both the law and employee skills to the point of danger. Further, vital training, skills and job levels must be maintained to permit the I&NS to engage in it's new roles in the future.

Thank you.

APPENDIX

A. IMPACT STATEMENT ON THE CLOSING OF POEs FOR INS PERSONNEL

B. OPERATIONS EL PASO DISTRICT

IMPACT STATEMENT ON THE CLOSING OF POEs FOR INS PERSONNEL

BY THOMAS J. KANTOS*

The few ideas presented here are only a brief summary of the St. Paul,Minnesota, INS District POEs which include Minnesota and North Dakota. All of the situations described here, apply equally well to POEs (port of entry) from Maine to Washington. If time permitted and the INS management had released its "survey" to the union, I would know if the "survey" emphasized closing of the POEs or the withdrawal of INS personnel. Greater detail of impact is available for each of the POEs upon request.

By maintaining the current number of Immigration Inspectors and POEs on the northern border, the Immigration and Naturalization Service is receiving the benefits of a GS-9 journeyman inspector and that of an adjudicator of the various petitions and application that INS receives. In addition, an inspector at many of the POEs in MN and ND is often the only person on duty. He must perform the full range of functions of an immigration inspector, customs inspector, agriculture inspector, public health, and all the other agencies represented at a border crossing.

During the fiscal year 1981, the St. Paul,MN, District border stations processed 50,000 applications and petitions for INS. These 50,000 adjudications were processed in addition to the persons, cargo, and aircraft that were inspected. The number of adjudicators necessary to perform this same task, would be 20 full time adjudicators. Closing half of the 26 POEs in MN and ND and transferring those persons to a remote adjudication center would barely provide the manpower needed to complete the current level of adjudications now being completed. This does not make sense from a financial management standpoint, nor from a utilization of manpower viewpoint.

The border buildings are in use to perform and enforce the current regulations for persons and merchandise entering the U.S. and should be utilized to the fullest extent possible. By withdrawing INS personnel from the border, a remote adjudication center would be founded, according to INS management's "survey". With this withdrawal from POE buildings,

---

*President, Local 3105, INS Employees, International Falls, Minnesota.

BEST COPY AVAILABLE

a 50% use loss would occur and the further expense of the remote adjudication center would be incurred. In addition to the high cost of rent, utilities, office equipment, the INS personnel would have to be transferred, at great expense also, or new personnel would have to be hired and trained, at an even greater expense. The closing of a POE or the withdrawing of INS personnel does not balance as a good move if the personnel is simply moved to a remote adjudication center to do a lesser range of functions for the same costs. Financially it would prove to be an extravagant,unnecessary move.

Besides the loss of INS personnel, there is also a loss to the community in several ways. The support of the inspector and his/her family in the community generally, and in churches, schools, and service club organizations in particular, would be missed locally. The financial input of a family in a small community is often vital to the economy of the area.

Beyond the support of one INS family, the closing of a POE has a much greater impact on the community. Many of the small border towns in MN and ND need the Canadian customers to survive. That's survive, not just making an extra profit. Besides the service provided to U.S. communities, many of the Canadians would not have access to any commercial shopping areas with the border POEs being open. Our relationship with Canada must be considered. Many of the Immigration Inspectors have contacted the affected communities and the people of these communities are very concerned. They will be making their concerns known to their Washington Reps as well as their state reps.

In addition to the previous reasons, medical needs of the U.S. and Canadian border residents must be considered. In many MN and ND communities the only hospital and/or clinic in the area is located on one side of the border or the other, but not both. In Sarles, Hannah, and Neche, ND, the U.S. residents use the medical facilities in Canada. In all the other areas the Canadians use the facilities on the U.S. side. A good example of Canadian use of U.S. facilities is the area north of Roseau, MN. The distance residents of Canada near the POE of Roseau or Pinecreek, MN, must travel to find medical aid in Canada is 70 miles. A trip to the Roseau Hospital is only 8 to 22 miles. In these areas where the Canadian hospital is so remote, all medical needs are taken to the U.S. This results in hundreds of children of Canadian parents being born in the U.S. and having a claim to U.S. citizenship and in other areas where U.S. parents have their children born in Canada, the children are also dual citizens with a claim to Canadian citizenship. In some areas there are as many U.S. citizens living in Canada, near the POE, as there are Canadians.

BEST COPY AVAILABLE

Some situations are unique to only certain POEs. The Northwest Angle of MN is one such place. The Northwest Angle is completely surrounded by Canada. Access to this part of the U.S. is gained only by passing through Canadian waters or by Canadian highway. If either the POE Warroad or Roseau, MN, are affected by the current "survey", access to this unique part of the U.S. could be severely affected. Restricting access to or return from the U.S. to the U.S. is not practical.

The law enforcement in the small communities of the border area have always relied on the cooperation and expertise of the inspectors that man the POEs. Numerous fugitives, etc., are arrested at the border each year and with less staffing or fewer POEs, the chance of apprehension will surely decrease also.

With the current problems encountered on the southern border, namely drugs and illegal aliens, the U.S. should not invite a similar problem on the northern border by lessening enforcement. A reduction of POEs or staffing could be the go ahead the drug, criminal and illegal aliens elements are hoping to see. An assault on the U.S. on the southern border is enough. The U.S. should not have to fight a war on two fronts when this can be avoided. The southern border is enough to keep all available law enforcement busy.

Just maintaining the staff level we have now acts as a deterrent to illegal operations. This is a value which is immeasurable, but obviously one that must be considered when weighing the values of a full staff of inspectors as opposed to a reduction.

Finally the airports adjacent to the POEs must be considered. Thousands of private and commercial aircraft are inspected at these small international airports. Where will these aircraft be inspected if not at the present airports? The larger inland airports are already jammed and the further burden of more aircraft would be too much of a burden for already reduced staffs to handle. This plus the fact that many aircraft would have to travel many miles and hours, possibly, out of their normal flight path just for inspection facilities. One of the unique airports that could be affected is Pinecreek,MN, where the airstrip lies in both countries and across the International Boundary. A special act of Congress was necessary to permit this. How do you close such an airport?

The International Peace Garden at Dunseith,ND, is another special place that lies in both countries and took special acts of the U.S. Conress and the Parliment of Canada to create. Restrict access to a place as special and unique as this?

BEST COPY AVAILABLE

In conclusion, it is obvious that the management of the INS has not given any consideration to even these few basic factors I have mentioned in this very brief statement. It is incomprehensible from any standpoint, be it financial or efficiancy that the INS or the U.S. would benefit from such a move. All the factors; deploying the work force for maximum utilization versus cost; impact on adjacent communities; relations with Canada; medical care for persons in the POE area; effects of the relatively open border could have on the drug and illegal alien problem; and the loss of airport facilities at POEs must be evaluated carefully. This can not be done by merely reviewing the statistics that are found on a monthly report from the POE.

If further information is needed on any of the POEs or the effects of closing any POEs and what it will do to individual communities, I will be pleased to comply with all requests.Justifiable cuts in government are one thing. Cuts in INS staffing of POEs are quite another.

THOMAS J. KANTOS
PRESIDENT LOCAL 3105
AFGE-INS COUNCIL OF LOCALS
INTERNATIONAL FALLS,MN 56649
PHONE: 218-286-3404 (HOME)
218-283-8611 (WORK)

American Federation of Government Employees
AFFILIATED WITH THE AFL-CIO
Local 1210
P. O. BOX 9731 – PAISANO ANNEX
EL PASO, TEXAS 79987

OPERATIONS EL PASO DISTRICT

El Paso District of the United States Immigration And Naturalization Service (INS) is composed of Ports of Entries (POE's): Presidio, Fort Hancock, Fabens, and El Paso, itself with three POE's. All these POE's are located in Texas; another POE in El Paso Distrcit is Columbus, New Mexico. There is a sub-office located in Albuquerque, New Mexico, and, of course, the District Office is in El Paso, Texas.

Fort Hancock and Fabens are open from 6AM to 10PM daily; all other POE's are open 24 hours daily. All POE's are staffed by the INS, US Customs, and sometimes by US Department of Agriculture. Also, there is an airport in El Paso for private and commercial international flights.

Around Christmas time 1981, El Paso District hired eleven temporary Immigration Inspectors because of existing shortages of permanent Immigration Inspectors (II's). These temporary hires were given approximately a week of orientation/training and then sent to work Primary-inspection of vehicles and pedestrians, examination of US citizens and inspection of aliens for entry, admission into the United States.

Permanent II's receive approximately 16 weeks of specialized training at the Federal Law Enforcement Training Center at Glynco, Georgia. Because of this lack of training temporary II's can not and do not work Secondary-issuing permits, working referrals, suspects, male-fides, and prosecution cases-aliens with counterfeit documents, imposters, aliens smuggled in trunks of vehicles, etc. Secondary inspection is about half the job.

Presently, two temporary II's are on the current schedule because of shortages of permanent II's at the El Paso POE's. Fabens, Texas is short two permanent II's and El Paso sends permanent II's there on details. Apparently it is cheaper to pay transportation expenses than to staff. Columbus, New Mexico is short the Officer in Charge (OIC); an officer is being detailed there from El Paso. Once again, it seems that paying transportation and per diem expenses is cheaper that filling the position permanently. This writer believes this is mathematically impossible.

Cubans remain at the INS El Paso Detention Facility, and the dozen or so one year temporary INS Detention Officers have almost completed their one year appointments.

The Mexican peso was just devalued approximately 40 %. Before this devaluation, traffic was ever increasing-adding to the pollution problems at the POE's. Ventilating systems are non-existent and/or poorly designed.

Much has been said and written about stricter border enforcement, yet Port, District, Regional, and Central Office policies remain loose-VERY LOOSE. Aliens that should be turned back as unqualified, inadmissible to enter the United States are allowed entry in ever increasing numbers through the Ports of Entry. The INS remains a joke, albeit a sad one.

Norman G. Fisher Jr 3/1/82

Norman G. Fisher, Jr.
President Local 1210
VP INS Council SR

This writer has been an Immigration Inspector stationed in El Paso for almost eleven years. I have traveled and lived in Mexico, so I believe that I am qualified as to the comments that I wrote above.

Senator **Simpson**. So thank you very much. And I always appreciate your testimony.

Mr. **Harpold**. Well, we are very appreciative of your listening, and I would like to just make one single comment on the Simpson-Mazzoli bill, and that is, I looked it over, it is very evident that you have listened to us as immigration employees, and I think it is very much time for immigration reform, and we in the Service who see the problems, and see the sufferings that are endured, are very much aware that the time has come for immigration reform.

I know that certain provisions are controversial with my own membership, and to you, Mr. Chairman, I pledge every effort on my part to educate our membership, educate the people in the INS, to the need for this, and it is time to bite the bullet, and we hope to go forward.

Senator **Simpson**. That is a very heartening statement. I appreciate that very much. Indeed, you can be of great assistance, and just know that the staff is accessible. As we move toward markup, we will certainly appreciate your continual efforts and the information that you furnish to us.

Thank you very much. I appreciate your being here.

That will conclude this hearing.

Thank you very much.

[Whereupon, at 4 p.m., the subcommittee adjourned, subject to the call of the Chair.]

○